

THE IMPACT OF COUP-RELATED SANCTIONS ON THAILAND AND FIJI: HELPFUL OR HARMFUL TO U.S. RELATIONS?

HEARING BEFORE THE SUBCOMMITTEE ON ASIA, THE PACIFIC, AND THE GLOBAL ENVIRONMENT OF THE COMMITTEE ON FOREIGN AFFAIRS HOUSE OF REPRESENTATIVES ONE HUNDRED TENTH CONGRESS FIRST SESSION

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WEDNESDAY, AUGUST 1, 2007

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ASIA, THE PACIFIC,
AND THE GLOBAL ENVIRONMENT,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:04 a.m. in Room 2173, Rayburn House Office Building, Hon. Eni F.H. Faleomavaega (chairman of the subcommittee) presiding.

Mr. FALEOMAVAEGA. The subcommittee hearing will come to order. This is the Subcommittee on Asia, the Pacific, and the Global Environment. We are holding a hearing concerning the impact on coup-related sanctions in the countries of Thailand, Fiji, and maybe also some discussion on the current application of our sanctions law in a country like Pakistan.

I would like to begin by having my opening statement, and I will then turn the time over to my dear ranking member and distinguished colleague from the great State of Illinois, Mr. Manzullo.

In 1985, in an effort to curtail United States' possible influence in generating civil strife in Central America and in reaction to a military coup, serious human rights problems in Guatemala that included the killing of four Americans, Section 508, originally Section 513, of the Annual U.S. Foreign Operations Appropriations, states that "No funds shall be spent to finance any assistance to the government of any country whose duly elected head of government is deposed by a military coup or decree."

Congressional Research Services, and I quote:

"The State Department and USAID officials contend that there is no strict definition of what a military coup is. Rather the key elements must exist for Section 508 to be invoked. The head of government must be duly elected. The head of government must be duly deposed, and the transition must be in the form of a military coup or decree. Two recent changes in government have raised concerns about how this sanction is being applied: Cambodia and the Democratic Republic of Congo. State Department officials point out that in the case of Cambodia, Hun Sen was part of the previous government and so the government was fully not deposed."

Boy, we are really splitting hairs here.

In the case of the Democratic Republic of Congo, Kabila ousted Mobutu, who was not duly elected. That example often applies in

the newly emerging democracies throughout Africa. But there are other examples which also raise concerns and deserve our attention. For example, I have serious concerns about how sanctions are being applied in Thailand, Fiji and Pakistan.

Thailand has been an ally of the United States for more than 188 years. As a Vietnam veteran myself, I will be forever grateful to the people of the Government of Thailand for their unfailing support and the 10 years that we have had that terrible conflict faced in Vietnam.

But it is true that on September 2006, Thailand's army commander chief led a bloodless coup and ousted the democratically elected Prime Minister. The fact is the coup was supported by the majority of the people and was a necessary act. Rightfully, and so in part, the State Department agrees, it has exercised discretion where it could in imposing sanctions.

In the case of Fiji, the Bush administration has barred the Fiji military officials and members of the interim government from obtaining visas to travel to the United States. This cut off most assistance. According to Section 508, assistance may be resumed if the President determines and certifies that a democratically elected government has taken office. Also, Congress can at any time exempt the country from Section 508 sanctions or provide the President with authority to waive such sanctions.

The President has exercised this authority in the case of Pakistan. In the case of Pakistan, in October 2001, Congress waived Section 508 and has since then granted annual waiver authority to the President, which he has exercised every year since 2003 based on General Sharif's cooperation on the war on terror.

However, nearly 8 years after overthrowing Pakistan's duly elected leader, Prime Minister Sharif, General Musharraf has still not made good on his promise to resign his military commission, nor has he held free, fair and transparent elections to reverse Pakistan's historic trend toward unstable governance and military interference in democratic institutions.

More alarming, since overthrowing the duly elected Government of Pakistan, Musharraf's dictatorship has been caught up in a web of transferring nuclear know-how to terrorist nations. In February 2004, Pakistan's most promising nuclear weapon scientist, A.Q. Kahn, admitted that he provided nuclear know-how to Iran, Libya and North Korea, a Who's Who on the world's most active sponsors of terrorism. By the way, Musharraf pardoned A.Q. Kahn for all the misdeeds that he committed in that period of time.

Despite this admission, Pakistan continues to receive billions and billions of United States aid year after year. In fact, coalition support reimbursements from the United States are roughly equal to one-quarter of Pakistan's defense expenditures since the year 2001.

The Bush administration is also in the process of selling F-16s to Pakistan, a development I am deeply concerned about given that F-16s are capable of delivering nuclear weapons, and Pakistan has a history of using United States weapons platforms against India, as was the case in 1965 when Pakistan launched a war against India using our country's F-104s it had purchased from the United States in the year 1960.

For the life of me, I do not understand how the United States can waive sanctions for Pakistan while applying sanctions to Thailand and Fiji. I believe it is a double standard in its highest form.

Before calling our distinguished first witness, I would like to now turn the time over to my good friend for his opening statement.

[The prepared statement of Mr. Faleomavaega follows:]

PREPARED STATEMENT OF THE HONORABLE ENI F.H. FALEOMAVAEGA, A REPRESENTATIVE IN CONGRESS FROM AMERICAN SAMOA, AND CHAIRMAN, SUBCOMMITTEE ON ASIA, THE PACIFIC, AND THE GLOBAL ENVIRONMENT

Enacted in 1985 in an effort to curtail the United States' possible influence in generating civil strife in Central America and in reaction to a military coup and serious human rights problems in Guatemala that included the killing of 4 Americans, section 508—originally section 513—of the annual US foreign operations appropriations states that no funds shall be spent to finance any assistance to the government of any country whose duly elected head of government is deposed by military coup or decree.

However, according to CRS, "State Department and AID officials contend that there is no strict definition of "military coup," rather that key elements must exist for section 508 to be invoked. The head of government must be duly elected; the head of government must be deposed; the transition must be in the form of military coup or decree."

Two recent changes in government have raised concern about how this section is being applied—Cambodia and the Democratic Republic of Congo. State Department officials point out that, in the case of Cambodia, Hun Sen was part of the previous government, and so the government was not fully deposed. In the case of Democratic Republic of Congo, Kubila ousted Mobutu, who was not duly elected. The latter example often applies in the newly emerging democracies throughout Africa.

But there are other examples which also raise concerns and deserve our attention. For example, I have serious concerns about how sanctions are being applied in Thailand, Fiji, and Pakistan. Thailand has been an ally of the US for more than 188 years. As a Vietnam veteran, I will be forever grateful for the government of Thailand's support to the US during that bloody conflict.

While it is true that on September 19, 2006, Thailand's Army Commander-in-Chief led a bloodless coup and ousted the democratically elected Prime Minister, the fact is the coup was supported by the majority of the people and was a necessary act. Rightfully so, in part, the State Department agrees and has exercised discretion where it could in imposing sanctions.

In the case of Fiji, the Bush Administration has barred Fiji military officials and members of the interim government from obtaining visas to travel to the US, and has cut off most assistance. However, US assistance to Fiji was only a measly \$2.5 million to \$3 million per year so ultimately why should Fiji care if the US cuts off its assistance.

According to section 508 sanction law, assistance may be resumed if the President determines and certifies that a democratically elected government has taken office. Also, Congress can at any time exempt a country from Section 508 sanctions or provide the President with authority to waive such sanctions.

The President has exercised this authority in the case of Pakistan. In the case of Pakistan, in October 2001, Congress waived 508 sanctions for FY02 and has since then granted annual waiver authority to the President, which he has exercised every year since 2003 based on General Musharraf's cooperation on the war on terror.

However, nearly 8 years after overthrowing Pakistan's duly elected leader, Prime Minister Nawaz Sharif, General Musharraf has still not made good on his promise to resign his military commission nor has he held free, fair and transparent elections to reverse Pakistan's historic trend toward unstable governance and military interference in democratic institutions.

More alarming, since overthrowing the duly elected government of Pakistan, the Musharraf dictatorship has been caught up in a web of transferring nuclear know-how to terrorist nations. In February of 2004, Pakistan's most prominent nuclear-weapons scientist, A.Q. Khan, admitted that he provided nuclear know-how to Iran, Libya, and North Korea, the who who's of the world's most active sponsors of terrorism.

Despite this admission, Pakistan continues to receive billions and billions in US aid year after year. In fact, coalition support reimbursements from the US are roughly equal to one-quarter of Pakistan defense expenditures since 2001. The Bush

Administration is also in the process of selling F-16s to Pakistan, a development I am deeply concerned about given that F-16s are capable of delivering nuclear weapons and Pakistan has a history of using U.S. weapons platforms against India as was the case in 1965 when Pakistan launched a war against India using F-104s it had purchased from the U.S. in 1960.

For the life of me, I do not understand how the US can waive sanctions for Pakistan while applying sanctions to Thailand and Fiji. I believe it is a hypocritical policy which needs to be reviewed.

For this purpose, we are holding today's hearing. With us is Congressman Mark Kirk, a Republican who represents the 10th Congressional District of Illinois and serves on the Appropriations' Subcommittee on State, Foreign Operations and Related Programs.

We will recognize Congressman Kirk for 5 minutes to present his testimony about why he believes we should whole-heartedly apply sanctions to Thailand while exempting Pakistan. We will also ask that after his 5 minute testimony he remain with us to answer a few questions regarding a bill he introduced to push Thailand to hold democratic elections while giving Pakistan a free pass.

For the record, I also want to include a background paper prepared by the Thailand Embassy in response to some factual inaccuracies in Mr. Kirk's bill. For example, section 2 para (2) states that the leader of the coup suspended the constitution and dissolved the Cabinet when the fact is the former Prime Minister Thaksin Shinawatra himself "dissolved the house since February of 2006 and called for a snap election which was later declared null and void by the Constitutional Court."

The background paper also suggests that there is some link between the bill and an issue of compulsory licensing by the Thai Ministry of Public Health involving a drug for HIV/AIDS patients which is produced by the pharmaceutical company, Abbott Laboratories, which I believe is headquartered in my good friend's district.

I believe Mr. Kirk should have an opportunity to respond to this allegation and, therefore, the Subcommittee welcomes Mr. Kirk and is pleased to provide him with an opportunity to share his views.

The Subcommittee also welcomes our good friends, Deputy Assistant Secretary Eric John and Deputy Assistant Glyn Davies of the US State Department.

Mr. MANZULLO. Thank you, Mr. Chairman.

Mr. Kirk, are you in a big hurry, or do you have time for my 2-minute statement?

Mr. KIRK. No, go.

Mr. MANZULLO. Thank you. Mr. Chairman, thank you for calling this extremely important hearing. I look forward to hearing about the administration's implementation and impact of Section 508 sanctions following military coups.

Let me first begin by stating my deep appreciation for the long friendship we have shared with the people of Thailand and Fiji. In particular, the United States-Thailand relationship is the longest bilateral relationship with Asia, with the first diplomatic ties established in the Treaty of Amity and Commerce in 1833 when Andrew Jackson was President of the United States. I think that is extremely significant. Ever since then Thailand has been a staunch United States ally.

From the time the king of Thailand offered President Abraham Lincoln elephants to use during our Civil War, to Thai troops serving along our servicemen in World War I, Korea and Vietnam, America truly values a close cooperation with Thailand, particularly now during the ongoing war against terrorism.

America was also deeply touched by the suffering endured by the Thai people in the aftermath of the tsunami. So, it was with great disappointment and sadness when the military overthrew the democratically elected government of Prime Minister Shinawatra.

The bilateral relationship between the United States and Thailand is so broad and important that we must do our best to ensure that critical cooperation is not disrupted. For example, ongoing

counternarcotics cooperation between the United States and Thailand is critical so that drugs stay off the streets of America.

It is this type of close cooperation that led to the capture of South Asia's most notorious and deadly terrorist, named Hambali, in 2003. Thailand has also made notable strides in improving its efforts to end the scourge of human trafficking. In addition, negotiations regarding the market opening agreement between the United States and Thailand held promise for new export opportunities for many American manufacturers, farmers and service providers.

The implementation of Section 508 sanctions on military cooperation with Thailand is truly unfortunate because of the closeness of the United States-Thai relationship. However, despite the strong ties that bind our nations, we must send a clear signal that the U.S. opposes the use of military force to overthrow a democratically elected government.

While I believe that former Prime Minister Shinawatra has a lot to answer for concerning his business dealings, a coup d'état is not the answer.

I understand the interim Government of Thailand is scheduled to hold a referendum on the draft Constitution in August and elections by the end of this year. I was honored when Ambassador Krit, the new Ambassador from Thailand, came to my office this week. He just presented his credentials to the President and shared with us his desire to have the new Constitution adopted. Ambassador Krit believes that it will be overwhelmingly passed and adopted by the people. If that doesn't happen, the old Constitution will remain in full force and effect.

I think this is really important. Thailand traces its history back to the thirteenth century. The country was never colonized and that sets it apart from the rest of the nations down there that was occupied by the Japanese during World War II.

I think what we have to do with Thailand is we have to be firm and yet let the people of Thailand know, especially the leaders, that we will work with them on reestablishing democracy and not punish them to the point that the country will become so impoverished and so at odds with the United States that they would be forced to live under a military coup. That is always the problem with regard to these sanctions, and that is why the one-size-fits-all rules simply does not make sense.

Mr. Chairman, I agree with you that it is inconsistent that Pakistan be granted a waiver and Fiji not, but there is nothing consistent about foreign policy. It is never intended to be that way because every country has to stand on its own, but still there is a guiding principle that we try to apply when we try to make some policy here. So I am really looking forward to the testimony of the witnesses, but as a result of that, we have a brand new Ambassador on his way to Thailand.

I had the opportunity; we both had the opportunity, to meet over lunch about 6 weeks ago. We are very excited over the fact that I think that Thailand can be turned around, set on the course of democracy. It will take a little bit of patience, and I don't know if the United States is going to be involved in the elections or not, but whatever we can do to facilitate the return of democracy to Thai-

land I think that we should endeavor to do, and I thank you for the opportunity.

[The prepared statement of Mr. Manzullo follows:]

PREPARED STATEMENT OF THE HONORABLE DONALD A. MANZULLO, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. Chairman, thank you for calling this important hearing. I look forward to hearing about the Administration's implementation and impact of Section 508 sanctions following military coups.

Let me begin by stating my deep appreciation for the long friendship we have shared with the people of Thailand and Fiji. In particular, the U.S.-Thailand relationship is the longest bilateral relationship in Asia with the first diplomatic ties established through the Treaty of Amity and Commerce in 1833 when Andrew Jackson was President of the United States. Ever since then, Thailand has been a staunch U.S. ally. From the time the King of Thailand offered President Abraham Lincoln elephants to use in battle during our Civil War to Thai troops serving alongside our servicemen in World War I, Korea, and Vietnam, America truly values the close cooperation with Thailand, particularly now during the ongoing war against terrorism. America was also deeply touched at suffering endured by the Thai people in the aftermath of tsunami. So, it was with great disappointment and sadness when the military overthrew the democratically elected government of Prime Minister Thaksin Shinawatra.

Mr. Chairman, the bilateral relationship between the United States and Thailand is so broad and important that we must do our best to ensure that critical cooperation is not disrupted. For example, ongoing counter-narcotics cooperation is critical so that drugs stay off the streets of America. It is this type of close cooperation that led to the capture of Southeast Asia's most notorious and deadly terrorist, named Hambali, in 2003. Thailand has also made notable strides in improving its efforts to end the scourge of human trafficking. Also, the negotiations regarding the market-opening agreement between the U.S. and Thailand held promise for new export opportunities for many American manufacturers, farmers, and service providers.

The implementation of Section 508 sanctions on military cooperation with Thailand is truly unfortunate because of the closeness of the U.S.-Thailand relationship. However, despite the strong ties that bind our nations, we must send a clear signal that the U.S. opposes the use of military force to overthrow a democratically elected government. While I believe that former Prime Minister Shinawatra has a lot to answer for concerning his business dealings, a coup d'état is not the answer.

Mr. Chairman, I understand the interim government in Thailand is scheduled to hold a referendum on the draft constitution in August and elections by the end of the year. I am heartened to hear this and look forward to seeing the results of an open and fair election process.

Again, thank you for holding this hearing, and I look forward to the testimony of our esteemed witness.

Mr. FALEOMAVEGA. Thank the gentleman for his opening statement.

We are also joined by our good friend, the gentleman from Arizona, Mr. Flake, opening statement?

As I said earlier, our first witness this morning is our colleague from the great State of Illinois. He represents the 10th Congressional District, now in his fourth term, and currently serves as co-chairman of what is known as the "Tuesday Group," where all the good Republicans get together every morning to plan out what might be best for our country.

Congressman Kirk began his career as a staffer to one of our former colleagues, Congressman John Porter, served in the World Bank, the State Department, one of the many law firms, and even as a senior staffer in this committee, and Congressman Kirk is currently a Naval Reserve Intelligence Officer. I suppose he might also make admiral in the coming months or maybe next year. Served during the conflicts in Iraq, Haiti and Bosnia and a 4-year tour at sea in Panama, quite a remarkable record I must say as a public

servant. Graduate of Cornell University and a master's degree from the London School of Economics. Very, very pleased to have our colleague here to testify.

I might note that this is an oversight hearing. We are not considering any piece of legislation involving, I say, two countries, but I would like to kick in Pakistan because Pakistan really just bugs me about the way we are applying this standard of sanctions, and maybe Congressman Kirk can help us along those lines too. Congressman Kirk, please.

STATEMENT OF THE HONORABLE MARK STEVEN KIRK, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. KIRK. Mr. Chairman, I will say it is a bit daunting to begin with. Having been a former staffer of this committee and seeing two of my bosses on the wall, I think I even staffed you on occasion in my previous life. I am also daunted to appear before you. I understand you are one of the few members with a really good picture of you and Elvis together.

Mr. FALEOMAVAEGA. Will the gentleman yield?

Mr. KIRK. Yes.

Mr. FALEOMAVAEGA. Believe it or not, my friend, Steve Colbert—[Laughter]. I just had a real tremendous experience of being interviewed by Mr. Colbert just a few days ago, and he wanted to see a picture of me and Elvis. What was wrong with that? But at any rate, please proceed.

Mr. KIRK. Given that I think that you lead the most important subcommittee on this committee, in this region, you probably have several hundred million viewers on the Colbert Report when you appear.

I will just sign on to disappointments in what is happening in Fiji. You will note in yesterday's *Wall Street Journal*, Fiji was identified as one of only four countries in the region with significant economic decline under its military dictatorship. And I share your concern about Pakistan. The longer we delay democracy there, the more the military has become an ally of fundamentalists. And the surrender agreements in south and north Waziristan and then the potential surrender agreement in Bannu are of concern to everyone, including the President and the Vice President.

Mr. Chairman, we all know on September 19 the Thai military and police overthrew the democratically elected government of Prime Minister Thaksin. At the time the popularly elected premier was actually in New York, ironically visiting with the United Nations, General Sonthi, a leader of the military coup, suspended the Constitution. He dissolved the cabinet in both houses of Parliament and the Constitutional Court.

Under Section 508 of the Foreign Operations Act, a subcommittee on which I serve, the United States must restrict assistance to a military government, including foreign military finance, IMET, peacekeeping operations and military aid. It has now been nearly 10 months since the coup, and the leaders of the country and the military-installed government there continue to move in several wrong directions.

Since seizing power, Thai military leaders have given themselves a \$9 million pay raise, have increased their military budget by over \$1 billion and cut health care spending by \$12 million.

On January 29, 2007, the United Nations High Commissioner on Refugee said that Thailand's decision to deport 16 Lao Hmong to the Lao People's Democratic Public without screening caused great concern.

On March 20, 2007, Human Rights Watch reported that the Thai army and police were disappearing ethnic Malay Muslims in the far south. On September 21, 2007, AFP reported that the Thai Administrative Reform Council ordered media executives to army headquarters to tell them to stop carrying expressions of public opinion following the military takeover. And on April 4, 2007, the telecommunications minister in Thailand's military-appointed government blocked access to YouTube. YouTube, he said, is not a very essential Web site; he had told that to the *International Herald Tribune*.

I am also concerned that the Thai military government has attacked jobs in both the State of Illinois and State of New Jersey. We are concerned in the 2007 special 301 report of the United States Trade Representative, who elevated Thailand to the priority watch list for attacking American intellectual property rights. The military-installed government seized intellectual patents from Sanofi-Aventis, a large New Jersey employer, making the heart disease drug Plavix, and then attacked the patents of Abbott Laboratories, which is the State of Illinois' largest employer.

Robert Bate of the American Enterprise Institute put it that Thailand is exhibiting unsavory characteristics of a military regime: Censorship, brutality, and attack on American intellectual property rights.

At this juncture in Thai history, lifting sanctions against Thailand under Section 508 would send a clear message that we approve of the Thai military government, that we endorse human rights abuse, that we support media censorship that we will go along with the theft of American patents, and that we also support the overthrowing of a free and democratic government in a critical Asian tiger.

The military-installed Government of Thailand can offer excuses and explanations. Its Embassy in Washington has published some colorful booklets, distributing them throughout Congress, but I think the critical moral point is the government is illegitimate and overthrew a freely elected government.

I think that what we should do is move forward on denying major non-NATO status to Thailand because NATO should be an alliance of democracies, and the considerable moral pressure that is now brought by entrance into the European Union of only democracies should also be extended to major non-NATO status.

Recently, I introduced H.R. 2382, the Thailand Democracy Act, and this legislation would have the President determine Thailand's status and remove it as a major non-NATO ally. I would encourage the committee to review this because I think for a key Asian tiger like this, moving backwards on democracy is exactly the wrong thing.

When we have a true democracy, we should be their allies. I think the center of gravity in Thailand is not its military. It is its middle class. And if we support the military against the Thai middle class, especially in Bangkok and its suburbs, we then become a poor friend of the people that will have the long-term future of Thailand.

Military governments inevitably lead to instability and very poor economic growth. Mr. Chairman, we are seeing that in Pakistan, and I don't want to see that in a critical country like Thailand. I would just urge us to stick with the conviction of our own convictions, and when a government that was elected by the will of its own people is overthrown, the largest and most powerful democracy on earth should stand with the people of that country and not its temporary military dictators. I thank you for the opportunity to appear.

[The prepared statement of Mr. Kirk follows:]

PREPARED STATEMENT OF THE HONORABLE MARK STEVEN KIRK, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF ILLINOIS

Mr. Chairman:

Thank you for giving me the opportunity to testify today before the Subcommittee on an issue of great importance to our country and, in particular, the Tenth District of Illinois.

On September 19, 2006, the Thai military and police overthrew the elected government of Prime Minister Thaksin Shinawatra. At the time, the popularly-elected premier was in New York City for a meeting of the United Nations General Assembly.

General Sonthi Boonyaratkalin, leader of the military coup, suspended the constitution and dissolved the Cabinet, both houses of Parliament, and the Constitutional Court.

The Department of State immediately issued a statement saying, "There's no justification for a military coup in Thailand or in anyplace else . . . we certainly are extremely disappointed by this action. It's a step backward for democracy in Thailand."

As the coup was unfolding, I joined several colleagues in expressing my concern on the floor of the House of Representatives.

Madam Speaker, news reports indicate that there may be an ongoing military coup under way in Thailand against the democratically elected government.

As a new member of the National Endowment for Democracy's board, I think we should take all threats to new democracies very seriously and lay out a clear policy for the United States to follow. We should support the democratic Prime Minister of Thailand. And if military forces succeed, it should be the policy of our State Department to terminate all U.S. assistance to Thailand.

It should be the policy of our Treasury Department to undermine the Bot, the Thai currency; it should be the policy of the Department of Defense to cease all military contact with the Thai military; and it should be the policy of our government in general to undermine military rulers in Thailand and return a democratically elected Prime Minister to office.

Following the military coup, the United States suspended \$24 million in bilateral assistance to the Thai government.

Under Section 508 of the Foreign Operations Appropriations Act, when a country undergoes a military coup, the United States is restricted from providing aid such as foreign military financing, International Military Education and Training grants, peacekeeping operations, and military aid.

Nearly 10 months after the military coup, despite promises by the military leaders to the contrary, the military-installed government of Thailand continues to move in the wrong direction.

Since seizing power, Thai military leaders gave themselves a \$9 million pay raise, increased the military budget by over \$1 billion, and cut health care spending by at least \$12 million.

HUMAN RIGHTS

On January 29, 2007, the United Nations High Commissioner for Refugees blasted Thailand's decision to deport 16 Lao Hmong to the Lao People's Democratic Republic without screening them to see if they needed international protection.

"We cannot keep silent where we witness persons, among whom may be asylum seekers, being forcibly returned without having their cases formally assessed. This is not in line with international standards," said a UNHCR spokesperson.

On March 20, 2007, Human Rights Watch reported that the Thai army and police were "disappearing" ethnic Malay Muslims in the far south.

"The Thai security forces are using 'disappearances' as a way to weaken the militants and instill fear in the Malay Muslim community," said Brad Adams, Asia director at Human Rights Watch. "These 'disappearances' appear to be a matter of policy, not simply the work of rogue elements in the security services."

CENSORSHIP

On September 21, 2006, AFP reported that the Thai Administrative Reform Council ordered media executives to army headquarters to tell them to stop carrying expressions of public opinion following the military takeover.

The move came one day after the military imposed strict controls on the media and said they would block "disinformation" deemed harmful to the provisional military council.

"The council asks for cooperation from all types of media and media operators, as well as reporters, to report their stories accurately and constructively in order to swiftly restore normalcy to the country," the official announcement said.

On April 4, 2007, Sitthichai Pookaiyaudom, the telecommunications minister in Thailand's military-appointed government, blocked access to YouTube, the popular video-sharing Web site. "YouTube is not a very essential Web site, is it?" he quipped to the International Herald Tribune.

On May 27, 2007, "The Nation" reported that the Thai Information and Communications Technology Ministry has shut down as many as 17 websites for their support of ousted Prime Minister Thaksin Shinawatra.

On June 28, 2007, the Thai Criminal Court filed a complaint with police against a website criticizing the Court's verdict in a defamation case against Maj. Gen. Khattiya Sawasdipol.

IPR INFRINGEMENT

The 2007 Special 301 Report from the United States Trade Representative elevated Thailand to the Priority Watch List for intellectual property rights.

Thailand will be elevated to the Priority Watch List in 2007, reflecting a concern that the past year has been characterized by an overall deterioration in the protection and enforcement of IPR in Thailand . . .

. . . in late 2006 and early 2007, there were further indications of a weakening of respect for patents, as the Thai Government announced decisions to issue compulsory licenses for several patented pharmaceutical products.

While the United States acknowledges a country's ability to issue such licenses in accordance with WTO rules, the lack of transparency and due process exhibited in Thailand represents a serious concern. These actions have compounded previously expressed concerns such as delay in the granting of patents and weak protection against unfair commercial use for data generated to obtain marketing approval.

Thailand's military dictatorship is breaking patents on HIV and heart disease drugs. The move to seize American patents will save the government an estimated \$24 million—incredibly, the same amount as the bilateral assistance suspended under Section 508 of the Foreign Operations Appropriations Act.

The military installed government seized IPR from Sanofi-Aventis, the maker of a heart disease drug called Plavix, and Abbott Laboratories, the maker of an HIV treatment called Kaletra.

Under World Trade Organization rules, countries can issue compulsory licenses for certain drugs in cases of "national emergency." But under Article 31, Section B of the 1994 TRIPS Agreement, "such use may only be permitted if, prior to such use, the proposed user has made effort to obtain authorization from the right holder on reasonable commercial terms and that such efforts have not been successful within a reasonable period of time."

As the Wall Street Journal wrote on February 10, 2007, “Thailand did not bother to consult prior to issuing the compulsory licenses, and the drug companies woke up to read about it in the papers.”

Furthermore, in its “White Paper” entitled “Fact and Evidences on the 10 Burning Issues Related to the Government Use of Patents on Three Patented Essential Drugs,” the Thai military government states: “. . . there is no need for prior negotiation with the patent holders before announcing and implementing the Government Use of Patent . . .”

Thailand’s effort to seize American patents stands in contradiction to established international principles. Perhaps the military government’s true intent was revealed on January 27, 2007, Thailand’s Public Health Minister Mongkol Na Songkhla. “We are willing to negotiate with the companies if they are willing to give some discount for the import of their originals.” Using American patents as blackmail should not be tolerated.

As Roger Bate of the American Enterprise Institute put it, Thailand “is exhibiting all the unsavory characteristics of a military regime—censorship, brutality, and infringement of property rights.”

RESTORING DEMOCRACY

Last month, the Thai military government’s Constitution Drafting Assembly approved a final draft of a new constitution, paving the way for an August 19th constitutional referendum and possible general elections in December. Unfortunately, we may not see democracy restored for a long time.

The new constitution is part of an effort by the ruling Council for National Security to decrease populist influence by reducing the impact of elections. Under the proposal, the Thai House of Representatives would be reduced from 500 seats to 400 seats, 320 of which will be directly elected and 80 appointed from the party list. A multi-seat constituency system will also replace single-member districts. The draft constitution eliminates direct elections for members of the Senate, who would instead be appointed by national and provisional committees composed of bureaucrats and judicial officials.

According to the Bangkok Post on July 2, 2007, Interim Prime Minister Surayud Chulanont ordered government officials to promote support for the draft, and the military-controlled parliament is expected to pass a bill later this month to penalize obstruction or opposition to the referendum. The draft constitution faces heavy opposition from Buddhist activist groups, democracy activists and supporters for the deposed democratic government.

Military-appointed Defense Minister Boonrawd said he wants people to accept the constitution draft in order to move forward to the general election. “The constitution can be amended later, after the election,” he added.

If voters reject the draft constitution, the military and government have 30 days to pick one of the nation’s past 17 constitutions to stand in, according to a clause in the interim charter promulgated after the Sept 19 coup.

This is hardly a process moving in a democratic direction.

KEEPING DEMOCRACY AT THE FOREFRONT

At this critical juncture in Thai history, lifting the sanctions against Thailand under Section 508 of the Foreign Operations Appropriations Act would send a clear message to the Thai military government: We endorse human rights abuses, we endorse media censorship, we endorse the theft of American intellectual property and we endorse the overthrow of freely elected democratic governments.

The military-installed government of Thailand can offer excuses and explanations. Its Embassy in Washington can publish colorful booklets and distribute optimistic talking points to members of Congress. But one fact remains—the government is illegitimate, having overthrown a freely elected democracy.

Rather than debating the application of 508 sanctions, we should be having a discussion on Thailand’s continued designation as a major non-NATO ally of the United States—a status that gives Thailand a range of benefits, including preferred American lending, participation in military exercises and preferential bidding on Department of Defense contracts.

A military dictatorship that deposes an elected government, seizes American intellectual property, censors national media and expands brutality should not be considered a major non-NATO ally.

I recently introduced H.R. 2382, the Thailand Democracy Act of 2007, to push Thailand’s military government to hold democratic elections. Under this legislation, the President is required to terminate Thailand’s status as a major non-NATO ally

until he can certify to the Congress that democracy has been restored to the Thai people.

I would urge the Subcommittee to examine Thailand's status as a major non-NATO ally instead as soon as possible.

Mr. Chairman, thank you again for granting me this opportunity to testify on an issue that impacts the lives of millions of innocent, democratic people in Thailand.

Mr. FALEOMAVEGA. I thank the gentleman for his most eloquent statement. I did forget to mention that our colleague happens to be a member of the powerful Appropriations Committee, specifically the Subcommittee on State and Foreign Operations and Related Programs, so we have to be nice to our colleague—

Mr. KIRK. That is right.

Mr. FALEOMAVEGA [continuing]. If we want to have to do anything with foreign operations.

I am happy we are also joined by our colleague from California, Mr. Rohrabacher. Dana, did you have any statement you wanted to make?

Mr. ROHRABACHER. First of all, I enjoyed your testimony and appreciate it, and of course, I am totally supportive of the direction that you are talking about going in, pressuring Thailand and pressuring the military leaders in Thailand to return to democracy.

The center of gravity, however, I would disagree with you. I think in Thailand the center of gravity is more of a combination of the middle class and the king, and unlike other societies that I have visited, there seems to be a genuine love for the king of Thailand among the people of Thailand. The king, of course, was not necessarily in opposition to this move by the military. I am supporting the thrust of your statement, but I think that we should temper it only with the recognition that the democratic leader that was overthrown was in the process of doing things to thwart the process of democracy from removing the office as well, and that is not a good thing.

So I would think that the long-term ramifications of keeping the military in, the people of Thailand have to know that there are horrible ramifications to keeping the military in power and that more of those ill effects will be felt just as the ones you are describing will be felt if the military tries to stay too long. And whether or not there was some action that was required, well, okay, the king thought maybe there was, but certainly there is no excuse for not a rapid return to democracy in a country that has a Parliament and has now experience in dealing with a democratic government.

So your analysis was illuminating, and I will be supporting those efforts that you are talking about, and I would hope that the military takes note that even people who, like myself, consider—I consider myself a very strong friend of Thailand—is looking for a very rapid return to democratic government. Thank you very much.

Mr. FALEOMAVEGA. I thank the gentleman from California.

Mr. Manzullo, questions?

Mr. MANZULLO. Mark, you come at this from actually four different perspectives: Academic, as a Member of Congress, as a former staffer, and as somebody who has served in the active military, and so you see all three dimensions of this situation, and I can't tell you how much I appreciate that.

Could you tell me, and I know you are a member of the National Endowment for Democracy, are there any of those NGO groups or

is there anybody in this type of organization that is working with the Thai Government now to help restore it to democracy, or is there any of that type of help that is available?

Mr. KIRK. I would say that it would be very important to deploy the full panoply of International Republican, International Democratic Institute and NED support to any election that the Thai Government holds. There is that critical moment in many returns to democracy in what I would call the Jimmy Carter moment, and many times it is Jimmy Carter that does this.

Mr. MANZULLO. Okay.

Mr. KIRK. When he stands before the cameras on election night and says that the election was BS, it doesn't matter what the dictatorship can say. The international community will not go along with it. I would hope that if we do have a purported return to democracy, we have the full panoply of election observers come there. I would hope that President Carter would be there.

Mr. MANZULLO. Have they been invited? Do you know anything?

Mr. KIRK. Not that I am aware.

Mr. MANZULLO. Maybe the Ambassador might know. Have you had the opportunity to talk to the new Ambassador, Ambassador Krit?

Mr. KIRK. I have not, and I have been increasingly concerned that the Thai Government—

Mr. MANZULLO. He would be in your office in 5 minutes if you called him.

Mr. KIRK. Okay.

Mr. MANZULLO. If you made that suggestion, my understanding at least based upon our conversation is that he would be open for that type of international observers, and you could serve a huge service to this country and to the Thai Government with your position.

Mr. KIRK. We would hope.

Mr. FALEOMAVEGA. Mr. Flake.

Mr. FLAKE. How has your legislation been received by the State Department? What have they said?

Mr. KIRK. I think at this point, having been in the State Department, they always want full flexibility. Our legislation would put the Congress on record and U.S. law as blocking major non-NATO status.

I simply would say in the 21st century, it is probably time to fully brand the NATO label as a democracy label. This has a key problem in Pakistan, and I might have the Pakistan be the Osama bin Laden exception. If you have got bin Laden in your country, we are going to use every method necessary to come and get you. And everywhere else we should have a branding exercise of making sure that the NATO label, like the EU label, is a democracy label and nothing else.

Mr. FLAKE. With regard to response from the Thai Government, do you think that this is enough of a carrot to pull them toward elections, or will we need some cooperation from some of our allies here?

Mr. KIRK. I guess I am worried too because the Thai Government is now attacking huge American employers on a fairly aggressive basis. When I saw the coup, I gave the first speech against the

military dictatorship there, and they had not yet attacked any American employers. But now they have attacked the largest one in the State of Illinois and one of the largest in the State of New Jersey.

That is typical of a military government: Idiotic economic decisions, leading to poor economic performance, greater instability, and eventual alliance with radicals to try to hang on to power. That is precisely what has happened in Pakistan. And I worry that a very influential and formally successful Asian tiger like Thailand has now allowed a general to take them in that direction. And the record of the Fijian economy—Fiji is now competing with North Korea to be the poorest economic performer in the Asian region.

Mr. FLAKE. In terms of trying to incentivize or pull them in this direction, you mentioned the effort is to stand with the middle class. Do you see the middle class responding in this way and putting pressure on the government to say, all right, we can't go down this road, and how can we help bring that about or make that more likely?

Mr. KIRK. This is a relatively new dictatorship, but over time through the NED, we have allied with the middle class. Probably the best, the early example is the Philippines, the latest example is Serbia. I am just struck by Serbia, how much the middle class feels that we helped in ending the Milosevic dictatorship and brought about not only a stable and peaceful Serbia but one whose economy is growing.

The military dictators of Thailand have to take them into an unstable, poor economic direction in order to stay in power, and so I hope we could work with the NED, work with pro-democracy groups to quickly turn them around.

I just remember when I served in the State Department in 1991, President Fujimori of Peru couped himself and threw the congress out and ruled as a dictator. The State Department very effectively formed what we call the TLTF, the Tough Love Task Force. We all liked Peru. We all worked well, but we cut off every angle of opportunity and support quickly to force Fujimori to return to democracy, and Peru's return to democracy also led to an end of the MRTA and Sendero Luminoso. Democracy was the best disinfectant for terrorism.

The Thai military leaders don't think that. They are going to learn a painful lesson if they hold onto power.

Mr. ROHRABACHER. Mr. Chairman, may I ask, is there any indication that they are moving toward a return to democratic government, or are the indications going in the other direction, Mark?

Mr. KIRK. No, there is a constitutional reform and promised elections, but yesterday North Korea had elections with 98.4 percent participation. So what I would do is apply the Jimmy Carter test. Is it an election, or is it one where international observers will come to the microphones with no controls on election night and say this was a fair process?

Just talking with Thai representatives, they said reforms to our election law are going to be coming forward, and my point would be, why did military leaders in smoke-filled rooms need to rewrite election reforms and then fax it to their people, their front men? Why couldn't you just hold elections under the law that you had

before in which you were a fully functioning democracy? It is a key question.

Mr. ROHRABACHER. Mark, there is indication that—I have followed a little bit about Thai politics—there were indications that there were corruption problems among the democratic political activists as well.

Mr. KIRK. Right.

Mr. ROHRABACHER. As I say, the last President had postponed and postponed and postponed actions that he was required to take—

Mr. KIRK. Right.

Mr. ROHRABACHER [continuing]. That would have required other elections and the transfer of power. This is almost like the police taking over city hall from the mayor.

Mr. KIRK. Right.

Mr. ROHRABACHER. And the question is how long are the police going to stay. If they stay 1 week and they have gotten rid of a corrupt mayor, maybe that is a good deal. If they decide to stay, then that is a terrible thing.

Mr. KIRK. I might just say that we have corruption in the United States Congress, but we do not want the Pentagon to come and sort it out.

Mr. ROHRABACHER. Good point. Excellent point.

Mr. FALEOMAVAEGA. We are also happy to have us joined by my good friend, the distinguished gentleman from New Jersey, Mr. Sires.

Mr. KIRK. A state that I have been concerned about since Thailand is now attacking the economy of New Jersey.

Mr. FALEOMAVAEGA. Congressman, we appreciate your testimony this morning, and like my colleague from California, Mr. Rohrabacher, I think all the fundamental principles that tend to relate to any military coups, these are some of the things that usually occur.

One of the problems, I had just recently returned from Thailand. I visited with the Prime Minister and the General and the leaders of that country, and let me just share with you, and I don't know if it is cultural bearing or the nuances, I don't know if Western countries have this same feeling about saving face, about being embarrassed publicly, whether it be by small reasons or big reasons, and I want to share with you there was some very profound sadness not just from the leaders but a sense for the people as if we have taken their friendship in such a way as if it didn't mean anything to them.

The 10 years that we were in Vietnam, Congressman, and Mark, you know, Thailand and Korea were our most staunch allies. Where were the others? Fifty thousand Korean soldiers fought alongside our forces in South Vietnam. The availability of the military air bases was one of the most important contributions that Thailand made in our efforts to fight this terrible conflict in Vietnam, and I always refer to the Chinese, saying there are many acquaintances but very few friends, and I must say as a Vietnam veteran Thailand was one of those very few friends.

Now I realize that we do have a problem, and indications of what happened to the Prime Minister's conduct where he somehow

worked out a situation where there was some loophole in their tax law which allowed him to sell his telecommunications company that was owned by his family by a single foreign company for \$1.1 billion, and that came out in the public in Thailand. I don't think it even hit the *New York Times* or anything here as far as the Western media is concerned. But there was tremendous uproar and disappointments on the part of the public on how the current Prime Minister was handling the state of affairs corruption.

All of these issues I think bore into the tensions and which cause, and I just say that I sense that there really wasn't a purposeful effort on the part of the military to take over the government because they wanted to. It was a sense of commitment that something was really not in the right order as far as what the Prime Minister was doing.

Sure, he was in New York and the coup was taken, which was a bloodless coup. He is now traveling all over the world, even one of our most prolific and well-known conservative writers in doing propaganda, advertisements and statements accusing the military government for whatever reasons, and my concern is that everything that you said about what military coups do I could not agree with you more.

Now take that whole context of what you just shared with us and let us put Pakistan next to it. I mean, it makes Thailand look minuscule compared to what Musharraf has done for the last 6 years. He has not even called elections, 6 years, and then the A.Q. Kahn incident where he literally took this nuclear information to Libya and all the other countries, very, very major in my humble opinion, and we continue giving these waivers to General Musharraf, who has refused to call the elections.

Here we are putting tremendous pressure on Thailand, you must have elections, you must have elections. In a 9-month period, they have been trying earnestly to do this. But we are not doing a darned thing with Pakistan in getting Musharraf to do the right thing. To me, I call it the height of hypocrisy in our foreign policy in that sense.

So I respect your concerns about the situation in Thailand, but my concern is that there is an unevenness in our foreign policy. Again, Thailand is a real friend and I want to put this to the record to share with my colleagues and to you, my good friend, Mark, the people and the leaders of Thailand are very, very not to say upset, almost disappointed with the way our country has reacted, labeling them.

And some of my friends say it must be an Asian thing. It is not an Asian thing. Losing face is more important to—well, I guess my roots from the Asian Pacific region—is more important than actually talking about substance, and I think this is where they say they were so disappointed that our country has put the sanctions label on, and now all the other countries and an embarrassment to their government.

And I always say look at the context of the uniqueness of the culture, the people. I like to think that they know more of what is happening, the nuances of their country than certainly those of us who tend to make judgments of these countries who are having a difficult time in bringing their democracy, certainly not to expect

that it should be an Americanized form of democracy but the kind that is most apropos to a country like Thailand.

So that is the only concern that I have in your statement this morning which again I want to thank you. We are also joined by our good colleague and the gentlelady from California, former Ambassador to the Federated States of Micronesia, my dear friend from California. Congresswoman Watson, did you have a question?

Mr. KIRK. I just would say that this room has hosted a number of protest leaders, opposition leaders, et cetera, who are now the heads of state. Make sure when we are working in Thailand we are working with the people who are going to rule it 10 years from now and not the ones who are going to hang on 10 months from now.

Mr. FALEOMAVAEGA. And what would you recommend that we do with Pakistan?

Mr. KIRK. Pakistan, when you see the moves of former Prime Minister Bhutto to come back to power, that is one of the single most encouraging things I think we could see, because I am increasingly concerned that the Pakistani middle class is moving in opposition to the military dictatorship.

General Musharraf's actions against the Supreme Court were a disaster. In my view, the center of gravity in Pakistan is the huge new communities in Karachi and Islamabad, et cetera, large consumers of Indian satellite TV who see a fully functioning democracy to their south, who is registering far better economic performance than they are, and return to a civilian rule in Pakistan would put them back on the side of their own government, and I think that would be a path for long-term stability.

Mr. FALEOMAVAEGA. Congressman, thank you so much for coming.

Mr. KIRK. Thank you.

Mr. FALEOMAVAEGA. Appreciate it. We will now turn to our next two witnesses this morning. We have the Honorable Deputy Assistant Secretary for South East Asia, Mr. Eric John. Eric John is a career member of the Foreign Service, Senior Foreign Service Officer. He served three tours in Korea, was Deputy Director for Korean Affairs; native of Indiana; received his education at Georgetown University School of Foreign Service and a graduate degree from the National War College, and very, very happy to have him. And I can't say more about the caliber of some of our good, excellent Foreign Service Officers that serve in this capacity.

Also with us this morning is the Deputy Assistant Secretary for Australia, New Zealand and the Pacific Islands, Mr. Glyn Davies. He is responsible for relations with Australia, New Zealand and the Pacific Island, public diplomacy, public affairs, regional strategy and multilateral institutions in the Asia Pacific Region.

Mr. Davies is also a member of the Senior Foreign Service and was at one time Acting Assistant Secretary of the Bureau of Democracy and Human Rights and Labor. At one time also as Deputy Assistant Secretary for the European Affairs and also Special Assistant to former Secretary of State George Shultz. So a very deep, tremendous depth in the experience of both of these gentlemen. Mr. Davies did his undergraduate studies at Georgetown University and a master's at the National Defense University.

Gentlemen, thank you so much for coming. My apologies for having called the hearing at such an early time period, but time is really crunching us, and hopefully we will be able to do this and to work this as I had indicated earlier in my opening statement.

Also with us, my good friend, former co-chair of the delegation to the United Nations, my good friend from Ohio, Mr. Chabot. Steve, did you want to make an opening statement?

Mr. CHABOT. No, thank you, Mr. Chairman, but thank you for holding this meeting.

Mr. FALEOMAVAEGA. Thank you.

Ambassador John, let me share with our colleagues your new assignment. We continue calling you Deputy Assistant.

Mr. JOHN. It is still over with the Senate, so I am waiting for confirmation. I had my hearing last week.

Mr. FALEOMAVAEGA. As ambassador to?

Mr. JOHN. The Kingdom of Thailand, but here I will speak as the Deputy Assistant Secretary of State for Southeast Asia.

Mr. FALEOMAVAEGA. Please proceed.

STATEMENT OF MR. ERIC G. JOHN, DEPUTY ASSISTANT SECRETARY, SOUTHEAST ASIA, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. JOHN. Mr. Chairman, Ranking Member Manzullo, and Members of the Subcommittee, thank you for the opportunity to testify before you today regarding the impact of Section 508 sanctions on Thailand.

The 174-year partnership between the United States and Thailand has been of great benefit to the United States. As a major non-NATO treaty ally of longstanding, Thailand remains an important United States partner in promoting peace and security in Asia and in other parts of the world. Access granted by the Thai Government to facilities in Thailand is critical to executing our highest priority, military operations, and the Thais have further supported those missions with their own personnel.

Bilateral engagement goes far beyond and far deeper than military cooperation. The United States and Thailand work together across the spectrum of international issues of importance, and our partnership is based on strong shared national interests. Against this backdrop of robust relations and cooperation, the coup of September 19 last year presented a major challenge for the bilateral relationship. We immediately made clear to the coup leaders and interim authorities that we desired a rapid return to democracy as the best way to ensure peace, prosperity and stability for the Thai people.

Section 508 of the Foreign Operations Appropriations Act restricts assistance to governments of countries where a duly elected head of government is deposed by a military coup or decree. In accordance with Section 508 requirements, we suspended a significant number of bilateral assistance programs to the Thai Government in the immediate wake of the coup. They are still suspended and will remain so as required by law until there is a determination that a democratically elected government has taken office.

In total, 508 sanctions resulted in the reallocation of over \$35 million in fiscal years 2006 and 2007 assistance funds originally in-

tended for Thailand. These funds were largely focused on military training and assistance programs, some trade and development technical assistance affected as well. The United States continued to provide approximately \$34 million in assistance to the Thai Government in order to fund select development, democracy promotion, disaster assistance, counterterrorism, counternarcotics, trafficking in persons and refugee assistance programs.

Throughout this difficult period in our bilateral relationship, we have continuously emphasized to the Thai that our relations cannot and will not return to normal until democracy is restored. The strong policy measures we took in response to the coup carefully balanced our need to underscore our rejection of the coup with our imperative to encourage restoration of democracy and to preserve the core United States national interests advanced by our strong relationship with Thailand.

The Thai interim Government has made significant moves to return the country to democratic rule with a national referendum on the draft Constitution scheduled for the 19th of this month and national elections planned for late November or December of this year. Our expectation is that Thailand will return to a democratically elected government by year's end, and we look forward to resuming fully normal relations with our longstanding ally next year.

Thank you, Mr. Chairman. Deputy Assistant Secretary Glyn Davies will now speak about Fiji, and I would be happy to answer any questions you might have.

[The prepared statement of Mr. John follows:]

PREPARED STATEMENT OF MR. ERIC G. JOHN, DEPUTY ASSISTANT SECRETARY,
SOUTHEAST ASIA, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT
OF STATE

THE IMPACT OF SECTION 508 SANCTIONS ON THAILAND AND FIJI: HELPFUL OR HARMFUL
TO U.S. RELATIONS?

Mr. Chairman, Ranking Member Manzullo, and Members of the Subcommittee, thank you for the opportunity to testify before you today regarding the impact of Section 508 sanctions on Thailand.

Ties between Thailand and the United States are multi-faceted and run deep. As one of our oldest and closest allies in East Asia, Thailand has maintained strong diplomatic relations with the United States for over 174 years. From scientific collaboration to joint disaster relief operations, peacekeeping and travel and tourism, U.S.-Thai interests are intertwined and enduring. Thailand also was one of the first to offer aid to the United States after Hurricane Katrina and lent its air base in Utapao for U.S. troops to launch humanitarian aid to the thousands displaced after the 2004 Indian Ocean tsunami.

The partnership between the United States and Thailand has brought other important benefits to the U.S. As a major non-NATO treaty ally of long standing, Thailand remains an important U.S. partner in promoting peace and security in Asia and in other parts of the world. Access granted by the Thai government to facilities in Thailand is critical to executing our highest priority military operations, and the Thai have further supported those missions with their own personnel. Thailand also hosts major bilateral and multinational military exercises that are critical to maintaining our forces' readiness and interoperability with allies, and its troops have participated in international peacekeeping missions in Cambodia, East Timor, Afghanistan, Iraq, and soon in Darfur.

Bilateral engagement goes far beyond military cooperation. The United States and Thailand work together across the spectrum of international issues of importance, from combating trafficking in persons and narcotics, to containing the spread and impact of avian influenza, to facilitating mutual trade and investment that benefits both our countries. Our partnership is based on strong, shared national interests.

Against this backdrop of robust relations and cooperation, the coup of September 19, 2006 presented a major challenge for the bilateral relationship. The coup was

clearly a setback to democracy in Thailand and all of East Asia, and a deep disappointment to the United States. We immediately made clear to the coup leaders and interim authorities that we desired a rapid return to democracy as the best way to ensure peace, prosperity and stability for the Thai people.

Section 508 of the Foreign Operations Appropriations Act restricts assistance to governments of countries where a duly elected head of government is deposed by military coup or decree. In accordance with Section 508 requirements, we suspended a significant number of bilateral assistance programs to the Thai government in the immediate wake of the coup. They are still suspended and will remain so, as required by law, until there is a determination that a democratically elected government has taken office.

In total, 508 sanctions resulted in the reallocation of over \$35 million in Fiscal Year 2006 and 2007 assistance funds originally intended for Thailand. These funds were largely focused on military training and assistance programs, with some trade and development technical assistance affected as well. Recognizing that to suspend all foreign assistance programs to Thailand would be counterproductive, the U.S. continued to provide approximately \$34 million in assistance to the Thai government, in order to fund select development, democracy promotion, disaster assistance, counter-terrorism, counter-narcotics, trafficking in persons, and refugee assistance programs.

Throughout this difficult period in our bilateral relationship, we have made clear to the Thai that our criticism of the coup reflects the strength of our commitment to a solid, enduring relationship with a close and trusted ally, not a weakening of this bond. We believe that democracy is vital to Thailand's stability and continued development and to the strength of our alliance. We have consistently emphasized to the Thai authorities at the highest levels over the past nine months the importance of returning to democracy as soon as possible and of adhering to the timetable they initially laid out to accomplish that objective. We also remain concerned about the government's failure to lift martial law in all provinces where it was imposed following the coup. Equally troubling, the new draft Internal Security Act appears to provide the military with increased power, although support for the Act in the National Assembly appears to be waning. We have made it clear that our relationship will be circumscribed until democracy is restored.

The Thai interim government has made significant moves to return the country to democratic rule, with a national referendum on the draft constitution scheduled for August 19 and national elections planned for November or December of this year. Our expectation is that Thailand will return to a democratically elected government by year's end, and we look forward to resuming fully normal relations with our longstanding ally next year.

Thailand's steady progress toward restoring democracy reflects not only Thailand's commitment to constitutional government, but also the effectiveness of U.S. policy approach, which includes the 508 sanctions implemented after the coup. The strong policy measures we took in response to the coup carefully balanced our need to underscore our rejection of the coup with our imperative to encourage restoration of democracy and to preserve the core U.S. national interests advanced by our strong relationship with Thailand.

Thank you Mr. Chairman. I would be happy to answer any questions you might have.

Mr. FALEOMAVEGA. Secretary Davies.

STATEMENT OF MR. GLYN T. DAVIES, DEPUTY ASSISTANT SERVICE, AUSTRALIA, NEW ZEALAND, AND THE PACIFIC ISLANDS, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. DAVIES. Thank you very much, Mr. Chairman, Ranking Member Manzullo, and Members of the Subcommittee.

Like my colleague, Deputy Assistant Secretary John, I would like to thank you very much for the opportunity to testify before you today. In my case, I will briefly address Fiji and the impact of Section 508 sanctions on that country.

Traditionally, Fiji has been a close and valued United States ally in the Pacific. It has a long history of contributing troops to multilateral peacekeeping missions, including those in Lebanon, the

Sinai, the Solomon Islands, Kuwait and East Timor. Fiji was quick to condemn the September 11 terrorist attacks on the United States and has been a staunch supporter of our efforts to build an international coalition against global terrorism.

The military coup of December 2006 leading to the overthrow of the lawfully elected Government of Fiji has strained our relationship. Unlike in the case of Thailand, Fiji's coup leaders have taken no credible steps to quickly restore democratic rule other than a vague promise to hold elections in 2009.

The United States responded to the Fiji coup by publicly denouncing the military's actions and imposing a number of sanctions, including a cessation of military and other assistance to the Government of Fiji in accordance with Section 508 of the Foreign Operations Appropriations Act, visa bans against coup leaders, suspension of lethal military sales and restrictions on bilateral engagement. Australia, New Zealand and the EU have authorized similar sanctions.

We are working to ensure that a legitimate government is restored in Fiji. The United States supports the initiative by the Pacific Islands Forum to help Fiji return to democracy at an early date. The U.S. has consistently called for the immediate restoration of human rights protections and civil liberties and early elections.

I would like to emphasize that our sanctions are targeted against the coup government. The United States, however, continues to provide assistance to the people of Fiji. For example, the Department of State approved a \$25,000 grant to support a program designed to strengthen Fiji's democratic traditions. We are also looking at ways in which we might provide assistance to Fiji in support of a return to democracy, including by supporting early elections.

Fiji continues to participate in U.N. and multilateral peacekeeping operations, including the U.N. Assistance Mission to Iraq, where Fiji troops provide security for U.N. headquarters. Although the United States decided that it will not impede Fiji's continued participation in ongoing deployments, we have made clear to the interim government and announced publicly that we will not support any new military deployments absent measurable progress in returning Fiji to democratic rule. Moreover, legally mandated restrictions on United States military assistance to Fiji preclude the United States from providing training, equipment and other material support to the Republic of Fiji military forces to assist any overseas missions until a democratically elected government has taken office.

The United States announced sanctions against Fiji on December 5, 2006. Since then, progress toward democracy has been unsatisfactory. However, the interim government has said that it supports "in principle" the recent Pacific Islands Forum-Fiji Joint Working Group report stating that elections could be held by March 2009 or even as early as 2008 if the international community provides assistance to help prepare for elections. The United States is willing to support the interim government in this effort if the government takes concrete steps to hold elections according to the forum-endorsed timetable.

We continue to maintain full diplomatic relations with Fiji and have made exceptions to our visa restrictions to allow a few senior

officials of the Fiji Government to come to Washington to meet with United States counterparts. We believe that sanctions offer the clearest message that restoration of military assistance and closer relations between the United States and Fiji can only resume when democracy returns to that country.

Thank you, Mr. Chairman. I would be happy to answer any questions you might have.

[The prepared statement of Mr. Davies follows:]

PREPARED STATEMENT OF MR. GLYN T. DAVIES, DEPUTY ASSISTANT SECRETARY, AUSTRALIA, NEW ZEALAND, AND THE PACIFIC ISLANDS, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. Chairman, Ranking Member Manzullo, and Members of the Subcommittee, like my colleague Deputy Assistant Secretary John, I would like to thank you for the opportunity to testify before you today. In my case, I will briefly address Fiji and the impact of Section 508 sanctions on that country.

Traditionally, Fiji has been a close and valued U.S. ally in the Pacific. It has a long history of contributing troops to multilateral peacekeeping missions, including those in Lebanon, the Sinai, the Solomon Islands, Kuwait and East Timor. Fiji was quick to condemn the September 11th terrorist attacks on the United States and has been a staunch supporter of our efforts to build an international coalition against global terrorism.

The military coup of December 2006 leading to the overthrow of the lawfully elected government of Fiji has strained our relationship. Unlike in the case of Thailand, Fiji's coup leaders have taken no credible steps to quickly restore democratic rule, other than a vague promise to hold elections in 2009.

The United States responded to the Fiji coup by publicly denouncing the military's actions and imposing a number of sanctions, including a cessation of military and other assistance to the Government of Fiji in accordance with Section 508 of the Foreign Operations Appropriations Act, visa bans against coup leaders, suspension of lethal military sales, and restrictions on bilateral engagement. Australia, New Zealand and the EU have authorized similar sanctions.

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The U.S. is willing to support the interim government in this effort if the interim government takes concrete steps to hold elections according to the Forum-endorsed timetable.

We continue to maintain full diplomatic relations with Fiji and have made exceptions to our visa restrictions to allow senior officials of the Fiji government to come to Washington to meet with U.S. counterparts. We believe that sanctions offer the

clearest message that restoration of military assistance and closer relations between the U.S. and Fiji can only resume when democracy returns to that country.

Thank you Mr. Chairman. I would be happy to answer any questions you might have.

Mr. FALEOMAVAEGA. I thank both gentlemen for their eloquent statements and the gentleman from Illinois for questions.

Mr. MANZULLO. Thank you, Mr. Chairman.

First of all, on behalf of the chairman and myself, we want to thank both of you for coming and especially want to thank your immediate boss, Chris Hill, for graciously inviting us over for lunch and a rare opportunity to meet with you and your staff and about 30 people working within that division. That has never occurred before.

Mr. FALEOMAVAEGA. Will the gentleman yield?

Mr. MANZULLO. Of course.

Mr. FALEOMAVAEGA. I might note that in all the 19 years since I have been a member of this committee, I have never been invited by our friends downtown since the Secretary took that initiative. So that is just to show how things happen here in this town.

Mr. MANZULLO. Well, it is refreshing. But I think it is that type of attitude—the attitude is not to make points but to have good diplomacy, and that is apparent in the office in which you are working.

My question, Mr. Future Ambassador, if I may call you by that, you obviously heard the discussion that we had with Congressman Kirk about any type of international monitoring of the elections. Could you comment on that? What is available? What has been done if that is possible?

Mr. JOHN. I think Representative Kirk referred to I think first of all the need for IRI, MDI, other NGOs following on your lead to go out and assist the Thais in the process to get to elections and get a new democratically elected government in place, and we have helped support that through our Democracy Rights and Labor Bureau funding. We have provided about \$2 million to IRI, MDI, IFES, to help and work with Thais and support that movement back to democratization. Oh, I should say we also intend to have a USAID democracy monitoring team going out in the coming months to sort of assess the current situation in Thailand.

With regard to the need to monitor elections, I think that is a call that we would make in the coming months as the elections approach, as the Thais request it or as we jointly deem they would need it. I just would say that they do have a long history of conducting free and fair elections, and I don't think that ability or that more importantly the strong desire by the Thai people themselves to vote has been lost. I mean, the Thais know how to vote. They know what a good, clean election is, and I think that our role should be to support that to the degree necessary.

Mr. MANZULLO. On August 19, this is the referendum on the Constitution?

Mr. JOHN. Right. They have a draft Constitution, and on August 19, it will—

Mr. MANZULLO. Nineteenth.

Mr. JOHN [continuing]. Submitted to a plebescite. Now they have had 17–18 Constitutions in the past. This is not anything particu-

larly new in Thailand. But what is notable is this will be the first time that the Thais have ever put a new Constitution to a public vote. This will be the first plebescite they have ever had with a Constitution.

Mr. MANZULLO. Is that the type of vote that you would want to have monitoring on?

Mr. JOHN. No, we don't intend to have monitoring, and there haven't been indications or accusations that this is an unfair vote.

Mr. MANZULLO. Right.

Mr. JOHN. It is an up or down vote. Even much of the disbanded parties have indicated that they are going to support this.

Mr. MANZULLO. Now, if this Constitution passes, then elections would be set in December?

Mr. JOHN. Once the Constitution passes, then they will be able to call elections, and I think they are shooting for the end of November or early December at the latest.

Mr. MANZULLO. What would it take for the United States to get involved in monitoring? An invitation from the Thai Government, is that sufficient?

Mr. JOHN. Right. And then we would I think work up quickly an assessment team, what we could offer. We wouldn't want to be the only nation monitoring elections. It would need to be an international effort to the degree that the Thais need it, and of course we have our Embassy, other Embassies on the ground and we do this routinely in other countries.

Mr. MANZULLO. Is this something you would advocate?

Mr. JOHN. I think I would prefer to wait to see what our Embassy and the USAID assessment teams judge. I don't want to give the impression that the Thais are incapable of holding a free and fair election.

Mr. MANZULLO. I understand. Do you believe that with the presence of monitors at elections in returning to democracy that this would give credibility to the Thai Government of their intent to return to democracy?

Mr. JOHN. Yes. If I could step back one step just to——

Mr. MANZULLO. Sure.

Mr. JOHN. I mean, I agree with the thrust of what Congressman Kirk was saying, that they do need to get out of a military government and into a democratically elected government. I hesitate to take the black-and-white characterization that he did that there were perfect media freedoms before the coup, and all of those media freedoms have been lost now, that they had a perfect democracy before the coups and that all is lost now.

In that sense, I think media freedoms in Thailand still exist, and with a free media, with a public that is well-educated about voting, committed to voting, that is why I prefer to hold off on assessment as to whether a monitoring team is even needed.

Mr. MANZULLO. I understand.

Mr. JOHN. Because with a transparent media, you could have a situation where the Thais do it without monitoring and the international community does accept it as a free and fair election.

Mr. MANZULLO. Thank you.

Mr. FALEOMAVEGA. The gentleman from New Jersey.

Mr. SIRES. Thank you, Mr. Chairman, for holding this hearing, and thank you for being here today.

I was just wondering, following up on Congressman Manzullo's question, have they asked for our assistance directly?

Mr. JOHN. For election monitoring?

Mr. SIRES. Yes.

Mr. JOHN. No, they have not yet.

Mr. SIRES. They have not?

Mr. JOHN. No. I think it would be a little too early for them to ask even because their first step is the Constitution before they can call an election.

Mr. SIRES. And as far as the coup in Thailand, what other messages has been sent through the area as far as our response to Thailand?

Mr. JOHN. I think our response in applying the 508 sanctions was absolutely necessary, that we don't countenance or support coups. It sends a strong message about rule of law, and not just their rule of law but us following our rule of law. 508 is the law. It was passed by Congress. We followed it.

The message that it sends throughout the region I think is positive, and I think that the Thais at the end of this, when they get back to a democratically elected government, I believe that the Thai people are going to understand and appreciate the role that we played and they will see this as a supporting role to their return to a democratically elected government.

Mr. SIRES. Do you think that they misjudged the fact that we have been friends for so many years, that we will act in such a harsh—

Mr. JOHN. I think the Thais understood very clearly that Section 508 sanctions would apply if they had a coup, and they made the decision to go ahead with the coup in spite of that. Had we not applied the sanctions, though, I think that would have sent a very weak signal about our support for democracy in Thailand and elsewhere.

Mr. FALEOMAVAEGA. Will the gentleman yield?

Mr. SIRES. Sure.

Mr. FALEOMAVAEGA. Can we demand the same from Saudi Arabia to have elections as soon as possible?

Mr. JOHN. I am sorry?

Mr. FALEOMAVAEGA. Can we demand the same from Saudi Arabia to have elections?

Mr. JOHN. That is out of my geographic bureau, sir. [Laughter.]

Mr. ROHRABACHER. He will be confirmed. [Laughter.]

Mr. FALEOMAVAEGA. The gentleman from Arizona, Mr. Flake.

Mr. FLAKE. I thank the gentleman for his testimony. Mr. Ambassador, with regard to upcoming elections, you seem a little more confident that they will get there than Mr. Kirk. Can you explain the basis for that confidence? He seemed rather skeptical.

Mr. JOHN. I would agree with him that they absolutely need to get to a democratically elected government. I think that the Thais from almost the day of the coup through where they are today have been very clear about the timeline. It slipped a couple of months, but they have been very clear about the timeline and the urgency

the coup leaders felt to return to a democratically elected government.

And the fact that they have held the Constitutional Drafting Committee meetings in a transparent way, floated drafts of the Constitution in a transparent way and adhered to those timelines very publicly, and there has been public debate, for example, about provisions of the Constitution, they have taken that into consideration and adjusted the draft, to me, that indicates that they are indeed going to hold to their timeline and have elections as anticipated.

Mr. FLAKE. Deputy Secretary Davies, with regard to Fiji, we visited Fiji prior to the coup. We met with the general that launched it. He seems to have meddled in politics or right on the edge or controlled things for quite awhile, so it was not a surprise I think to any of us what happened.

What incentives or what can we do other than impose the type of sanctions that come by virtue of the coup to bring them back or to encourage them to return to elections?

Mr. DAVIES. Well, I won't surprise you, Congressman, by telling you that we are on the right track in doing what we are doing, and I think the most important thing in that context is really to stick with Fiji's neighbors. The Pacific Islands Forum is a regional grouping that has taken a fairly strong stance against the coup, and I think we need to stick with them, and that is what we are doing.

So all of our sanctions really are meant to reinforce the message that has been sent to Fiji by Fiji's neighbors, and I think it would be a mistake to alter course at this stage.

Mr. FLAKE. With regard to the makeup of the future government, I understand the demographics have changed a bit in Fiji since the last couple of elections, so native Fijians again outnumbering those with ethnic ties to India. If we were to have elections, would there likely be a different result than what was not liked by the general before?

Mr. DAVIES. Answering that would require me to violate a whole bunch of rules, not least predicting the future, but I don't know. I mean, I think we just have to hope that a democratic election is free and fair and results in a government that serves the needs of the Fijian people. We thought that the prior government, the Qarase government, was all of that. They might not have been perfect, but they were legitimate and they had a program, and they were sort of on their way to implementing it.

We think that there could be elections actually quite soon. Commodore Bainimarama has talked about 2009, but then the government has done nothing to prepare really for elections. They have made some hortatory promises, but they haven't dedicated any resources, they haven't begun any planning, they haven't done anything that would help those elections take place.

Mr. FLAKE. What are they telling the potential investors from the U.S. and elsewhere? Do they try to put on a show that they are moving back toward a democratic rule?

Mr. DAVIES. I don't necessarily think that they are, and that is a problem because their balance of payments are in worse shape than before the coup. Their foreign reserves are way down. Eco-

conomic activity has slowed. Investment has slowed. So they have got a real problem and they need to do something to kind of restart the Fijian economy, but keeping the status quo is not the answer. They need to begin to take more credible steps back toward democracy.

Mr. FLAKE. Thank you.

Mr. FALEOMAVAEGA. The gentlelady from California.

Ms. WATSON. Thank you so much, Mr. Chairman, for holding this hearing, and I want to wish you, Ambassador John, a great amount of success in your confirmation. I was listening very closely to your comments and your responses, and I appreciate the outlook that let us see what they actually produce.

I have a great deal of confidence in Thailand and the Thais. I have been in that area for many, many years not just as an ambassador but as a teacher down in Okinawa and am quite familiar with it, and I think with the Thais, they can handle this. I think our position has to be just very supportive, and I am hoping that the Pacific Islands Forum, we might be able to work with them and try to send them better on their way for a more democratic kind of government.

Can you tell me, what are we still doing? Are we still helping them in training of their military, those that are going to Iraq? Are we still funding other programs?

Mr. JOHN. For Thailand?

Ms. WATSON. Yes.

Mr. JOHN. Yes. Virtually all of our military cooperation has ceased under 508. So, for example, we don't have the IMET, the International Military Education Training, going on in the United States.

Ms. WATSON. I see.

Mr. JOHN. We did conduct, for example, in the spring the Cobra Gold multilateral annual military exercise that we have had for many years in Thailand, and the decision was made that our regional strategic interests, the military cooperation interests we had with our other partners like Singapore and Indonesia in the region, merited moving forward with it this year. But we did a lot of soul-searching on whether we should do that, and we decided it was worth it. So we do have some cooperation going on, yes, ma'am.

Ms. WATSON. And what is our posture now with the Pacific Islands Forum? Are we helping to support them, Secretary Davies?

Mr. DAVIES. Yes, we are, and there has been an agreement between the interim government in Fiji and the Pacific Islands Forum to set up a working group to help get Fiji to elections, but the problem is as I indicated that the Fiji Government had yet to really take the necessary steps to show that they are serious about that commitment to get to elections perhaps in early 2009, we hope in 2008.

So we have got a standing offer on the table to help with training, democracy programs, whatever might make sense in that context once we see that the commitment is really there on the part of the government to get going toward elections, and that is what we haven't seen yet. So that offer is there, but we are not ready to follow up on it because there is no there there in terms of forthcoming elections.

Ms. WATSON. I heard you say something about the demographic change, and I know last time I was in Fiji there was concern by the native Fijians that their whole country and government was being taken over by those from India, descendants of those from India, and I would be interested in knowing what the percentage of change has been.

There was a sense that they wanted to recapture their own governance, and I heard it as I was under cover, I was just traveling as a tourist so to speak. Osmond Sit was the Ambassador then. I went down to meet him and visit with him, and I just bought a tour, and I was able to hear from the people. They didn't know who I was. I look like a Fijian, so I heard their deep concern about who was running their country. I looked at the signs when we got down to the city of who the doctors and attorneys were and so on, and it kind of verified the fact that their governance was more oriented toward India than it was toward Fiji.

I also saw in the native villages the shells pointing toward the continent of Africa and Fiji. So I found a great sense of trying to identify with Africa and what is Africa, and so there was a frustration there. Can you tell me about the demographic change and what do you think a democratic election would produce?

Mr. DAVIES. Yes. Well, it is very much a follow-on to the question asked earlier and impossible to know what an election would produce. I think, though, that it is fair to say that Fiji has done a reasonably good job in recent years in putting together governments that reflect Fiji, so there have been ethnic Indians and ethnic Fijians who have had various roles in governments. Even the current interim government, the finance minister is an ethnic Indian. Commodore Bainimarama obviously is a Fijian. I have heard these concerns too, and it is kind of the big question in Fiji.

Ms. WATSON. Yes.

Mr. DAVIES. It is the big challenge that they have and I don't mean to belittle it, but I have to admit that I have to be humble here, I don't know the answer. I don't think anybody does. I think every friend of Fijian, and we count ourselves as one, needs to do what we can to help them work through this.

But in addition to some of the tensions and strains that you witnessed, I also have picked up on my travel there a real willingness I think on the part of the Fijians to figure out solutions to these problems, and it is a fairly peaceful society. I mean, it is not a country that has a history of frequently coming to blows over this issue or a history of this issue creating serious problems. Politically, though, it has been for them a challenge to deal with. So I don't know what a future government would look like.

Ms. WATSON. But what is the demographic change like? And before you respond, I heard from the people it was about jobs, and they would show the cane fields and so on. They said, we used to work there, we don't any longer work there.

Mr. DAVIES. Yes. Yes. I don't have specifics on what the change is. I would be very happy to get that for you.

Ms. WATSON. Would you?

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM MR. GLYN T. DAVIES TO QUESTION ASKED
DURING THE HEARING BY THE HONORABLE DIANE E. WATSON

There has not been a census in Fiji since 1996, though one is scheduled to begin next month. Absent accurate and up-to-date figures, domestic and international observers estimate, very roughly, that at present ethnic Fijians constitute approximately 55 percent of the country's total population of over 800,000. Indo-Fijians make up an estimated 38 percent. The remainder of the population is comprised of other Pacific Islanders, Chinese, and Westerners. These estimated figures reflect the continuing emigration of Indo-Fijians from Fiji that began in earnest after the coups of 1987 and that are believed to have accelerated after the coups of 2000 and 2006. In 1987, Indo-Fijians comprised 51 percent of Fiji's population.

Mr. FALEOMAVAEGA. Will the gentlelady yield?

Ms. WATSON. Certainly.

Mr. FALEOMAVAEGA. I think approximately 70 percent of the businesses in Fiji are run and operated by the Indian nationals, those who live there.

Ms. WATSON. I was speaking of that rub.

Mr. FALEOMAVAEGA. Yes.

Ms. WATSON. So it goes very deep and there is a sense of nationalism. So it is something, Mr. Chairman, that we need to watch very closely. And I have been trying to work with the chair to get a codel going down there, and I think maybe a visit to the Pacific Islands Forum and then going back to Fiji and also to Thailand would serve us well as we look at how we would assist after they have gone back to a democratic type of government.

With that, I thank you so much for the time, Mr. Chairman.

Mr. DAVIES. Mr. Chairman, can I make just one quick comment on that issue because I think it is an important one?

Mr. FALEOMAVAEGA. Yes.

Mr. DAVIES. It is a finely balanced society in terms of the ethnic origin of the people, but I think it is a fair statement to make that Fiji has made a lot of progress on that issue, the relations among the peoples of Fiji, and I think it is fair to say that it is a bit less of an issue now, though it still is admittedly one, than it was say half a generation or a generation ago. So I think if we step way back from the situation, look at it from 40,000 feet, I think they have made progress.

Mr. FALEOMAVAEGA. I might add to the gentleman's statement that under the dynamic leadership of Sir Ratu Mara Kamisese for some 17 years he was Prime Minister of Fiji, he was able to unite the Indian community in Fiji. They worked together as a coalition government to the extent that even the interim government, the finance minister is an Indian national, former opposition leader who also wanted to run for Prime Minister.

The gentleman from California.

Mr. ROHRABACHER. Thank you, Mr. Chairman.

Let me just note that what happened in Fiji should be also a lesson for the people of the United States, and we pride ourselves in being a multicultural society, but if you bring in huge, large numbers of people who do not inculturate and not become part of a greater culture but maintain a separate culture within that context, it causes large long-term problems, and I guess the Fijians can thank the British for importing large numbers of people from India into Fiji, and they have left them with this cultural divide.

So let me just note that as we permit massive illegal immigration into our society, we may be left with some major cultural problems too if indeed those people coming into our society keep a separate culture rather than become part of the greater American scene.

With that said about Fiji, it appears from what Mr. Kirk is telling us that the economic situation is deteriorating, and I would agree with his assessment that military governments tend to make very poor economic decisions. Could you comment on that?

Mr. DAVIES. Well, I think that is right. I think he makes a very good point in saying that. I am not an economist, so I can't unpack the economy of Fiji and explain to you exactly what is happening except to say that they have this coup culture there. This is the fourth coup in 20 years, and it is the same pattern. Every time there is a coup the economy of Fiji takes a hit, and it is happening again.

I am taking a stab here, but I think a lot of it is just uncertainty. If you are an investor, if you are a businessperson, if you own a mom-and-pop store, you want to know what the future is going to hold. You want to know that there is a judicial system that is predictable. You want to know that the bureaucracy is there to sort of meet your needs. And unfortunately what is happening in Fiji of course is this military government is beginning now to kind of insert itself throughout other branches of government. They are sending military officers out as diplomats. They are putting military personnel in various ministries.

I will give you another example of some of the judicial problems there. There were two deaths early on in the coup at the hands of the military, and those cases haven't been resolved. No charges have been brought. So there is sort of this chill that is now through Fijian society and it affects the economy, it affects the society in every aspect, and that is directly owing to the fact that there was this coup.

Mr. ROHRABACHER. And there is a mistaken impression by some people in the West that the military will lead to less corruption in some of these developing countries than a democratic government would, a military takeover, and in the short run, I don't know. Maybe in the first 6 weeks that may be true, but I would think that in the long run, we have seen that nondemocratic governments, especially military government, lead to high-level corruption, et cetera.

To Thailand, with that said, there was a great deal of corruption in the democratically elected Thai Government that was overthrown, is that correct?

Mr. JOHN. Yes, there was corruption.

Mr. ROHRABACHER. A high level of corruption. In fact, the former Prime Minister, is he not a billionaire?

Mr. FALEOMAVAEGA. Multi-billionaire.

Mr. JOHN. Multi-billionaire.

Mr. ROHRABACHER. I am sure he got all that money through just purely honest means. I am sure that he was a very honest man and he woke up one morning and the tooth fairy had given him these billions of dollars, I am sure. It had nothing to do with manipulating the situation with cronies, et cetera.

I understand that the former Prime Minister was very well-known for spending his money in achieving his electoral goals. Is that true?

Mr. JOHN. Well, that is what the interim authorities and perhaps the next government are investigating right now.

Mr. ROHRABACHER. Right. That is not an excuse for a military takeover. Let me note that if there is corruption in the former government in Thailand, if there is not a rapid return to democratic government where people are held accountable through the election process, you could expect the level of corruption actually to increase, not to go down.

But with that said, even I believe the king had recognized that there are certain things that had gone on that weren't acceptable. Let me ask you about one of those things.

You might correct my memory because I have not studied this, we have a large number of things to study here, that is why you are here. My memory tells me that there was something that the former Prime Minister was doing that was holding off the election process or something like that. Is that the case?

Mr. JOHN. He had called for new elections, and I think the concern at the time was that the elections would—the concern, the allegations were that he was using the political levers, and some legal, to concentrate power and make it extremely difficult under a new election system for the opposition party to get the number of seats that would reflect their level of support.

Mr. ROHRABACHER. So they were putting in place a new election system?

Mr. JOHN. No. He was to a great degree following the existing Constitution, but he was able to use the Constitution in means that were not seen when it was drafted that could consolidate power.

Mr. ROHRABACHER. Okay. Well, this vote that is coming up on this plebescite on their new Constitution, have you studied or do you know about their new Constitution that is being proposed?

Mr. JOHN. Not a great deal. I mean, I have seen some of the headline issues.

Mr. ROHRABACHER. If you could do me this favor, you are going to be the Ambassador there now, is that correct, in Thailand?

Mr. JOHN. One hopes. Senate willing.

Mr. ROHRABACHER. Okay, Senate willing. I would hope that you would work with some others and get back to my office an analysis of that Constitution, whether or not we believe that this is a Constitution that is a fraud, meaning that the military now is proposing something that is going to skew things in a direction, in a nondemocratic direction or for certain interest groups in that society, if you could get back to my office, I would appreciate that very much.

Mr. JOHN. Sure. Yes. All right.

Mr. ROHRABACHER. And whether or not the plebescite is a legitimate plebescite and is irrelevant if the Constitution that they are voting on is a fraud, and I would like to know about that.

Unfortunately, military governments have a tendency as we say to get in and become self-serving. Surprise, surprise. People in power, they get ultimate power, they start using it for their own benefit, and that is why it is really important that we emphasize

to them, and that is why I do support the restrictions, the restrictions that we have on aid to any government that represents a military government, especially one that is overthrowing a democratically elected government.

But as Ambassador, you will be there not only to represent those values that I think the values to the American people but try to help them along the way to moving forward as fast as they can toward a legitimate democratic government.

The kind of Thailand is someone who I deeply admire, and I will note that the fact that he thought that the former government had gone beyond the bounds of acceptability to the point that he did not oppose the military action should mean a lot. Well, it means a lot to me and should mean a lot to others. However, the speedy transfer back to democracy means just as much.

Mr. Chairman, about your comparison to Pakistan, let me note that in Pakistan, the history of the democratically elected government in Pakistan is not a history of the Pakistani people electing radical Muslims. Radical Islam in Pakistan has always been associated with the military of Pakistan, and thus our willingness to accept military rule actually has been a blessing to radical Islam.

However, with that said, we must recognize also that Mrs. Bhutto, when she was in power, her husband was I believe not only accused but convicted of stealing hundreds of millions of dollars from the people of that country, hundreds of millions. I think it was \$600 million. And the trouble with both of these, with the situations, it is not like we are talking about black and white because, unfortunately, there has been corruption associated with the democratic—

Mr. FALEOMAVAEGA. Will the gentleman yield?

Mr. ROHRABACHER. Sure.

Mr. FALEOMAVAEGA. Do you refer to it as radical Islam or any form of radicalism?

Mr. ROHRABACHER. Well, right now radical Islam is America's nemesis and the Western world's nemesis. However, in terms of radicalism, that can be translated in other societies where radicals may be murdering their people other than just murdering—

Mr. FALEOMAVAEGA. And they are not necessarily Muslims or members of a certain religion.

Mr. ROHRABACHER. Right. Correct. Yes, there are other societies where radical—they are in India. There are some radical Hindus. Ghandi was assassinated not by a Muslim, but Ghandi was assassinated by a radical Hindu, and those are things that we have to take into consideration.

But I do appreciate the chairman's remarks about Pakistan. I think in the long run that if we hold true to our principles of having a more consistent position on democracy, then it will serve America's interests.

Mr. FALEOMAVAEGA. Will the gentleman—

Mr. ROHRABACHER. And even with our friends in Thailand who now are holding—they may have been our friends, and I know that the chairman served in Vietnam and probably served with some Thais, because when I was in Vietnam, I was not in the military, I was doing political work there, I remember the presence of the

Thai troops, and it was a very positive presence of the Thai troops. So their air bases as well as their troops helped in Vietnam.

So with that thought, I wish you luck. I hope maybe we will see you—maybe the chairman and I will bring a codel down there and we can visit you in the wonderful Ambassador's residence that I seem to remember right in the middle of Bangkok there. Is that still the Ambassador's residence?

Mr. JOHN. Yes, it is. It is.

Mr. ROHRABACHER. Well, enjoy it while you can.

Mr. JOHN. Yes, thanks. [Laughter.]

Mr. ROHRABACHER. All right. And thank you very much, Mr. Chairman. I appreciate this opportunity to learn, and I would like an analysis—

Mr. JOHN. Yes.

Mr. ROHRABACHER [continuing]. Of the new Constitution. I would like to find out whether or not this is a sham or whether or not it is a very legitimate reform Constitution to try to undo some of the problems that existed in the democratic government that was co-opted by the military.

Mr. FALEOMAVEGA. And without objection, that will be made part of the record when you submit that.

Mr. ROHRABACHER. Yes. Thank you.

Mr. JOHN. And we will answer that.

[The information referred to follows:]

WRITTEN RESPONSE RECEIVED FROM MR. ERIC G. JOHN TO QUESTION ASKED DURING
THE HEARING BY THE HONORABLE DANA ROHRABACHER

The new Thai constitution to be placed before Thai voters in an August 19 referendum is intended by its drafters to address some of the perceived shortcomings of the 1997 constitution.

The new charter removes from the Senate the power to appoint members of independent oversight bodies like the counter-corruption commission and vests it in commissions in part comprised of judges and their nominees. Another provision, perhaps the charter's most controversial, provides for a half-appointed Senate rather than the fully elected body created by the 1997 constitution.

Under the 1997 constitution, the Senate was intended to be non-partisan and, therefore, was charged with duties—such as making appointments to oversight bodies—that required impartiality. However, in practice the Senate was generally considered politicized, and it failed to carry out its duties.

In the most often cited and damaging example, the Senate's failure to appoint members to the counter-corruption commission led to the suspension of that body for a full year amid increasing concerns about corruption. Another example was the conviction, before the coup, of a majority of the members of the Senate-appointed Election Commission for electoral fraud committed on behalf of former Prime Minister Thaksin's party.

It remains to be seen whether these and other specific changes included in the new constitution will achieve their desired ends. Our expectation is that the elected government installed following polls scheduled for December 23 will pursue amendments to the charter if they are desired by the Thai people.

Mr. FALEOMAVEGA. My good friend from New Jersey, I think he has a follow-up question.

Mr. SIRE. Mr. Chairman, thank you for your courtesy.

Just an issue that was raised here regarding assimilation of the Indian community in the Fiji Islands. Did the assimilate to society in Fiji as far as you know?

Mr. DAVIES. Well, I guess it depends on how you define assimilation, but I think the better word to use is probably accommodation. I think the two groups have reached a level of accommodation in

Fiji that has enabled them to work together. I am not saying the tensions aren't there, they are. I mean, as I said, it remains one of the big issues, to some maybe the biggest issue——

Mr. FALEOMAVAEGA. Will the gentleman yield?

Mr. DAVIES [continuing]. That Fiji has to deal with.

Mr. SIRES. Sure.

Mr. DAVIES. But on this question of assimilation, they live side by side, they work together, their governments are often ethnically mixed, they are always ethnically mixed in recent years, so there is that level of assimilation.

Mr. SIRES. So they made a possible contribution to the island?

Mr. FALEOMAVAEGA. Will the gentleman yield?

Mr. SIRES. Sure.

Mr. FALEOMAVAEGA. Fiji was a British colony, and on top of that, the British wanted to grow sugar plantations. Fijians are not stupid. They are not going to work out in the hot sun. So part of the British Empire wanted to flourish and grow and decided to get Indians to become servants, working on the cane fields. And as a result of that, when Fiji became independent in 1970, the British left and the poor Fijians and the Indians had to fend for themselves in trying to figure out how we are going to live. It wasn't something that Fijians wanted, and of course the Indians were brought there to work in the sugarcane fields.

So as a result of that, the Hindu religion has no mixture whatsoever with Christianity in terms of any cultural, social barriers as far as a society wanting to work together, and I am not saying that there is no desire between Indians and the Fijians. I mean, they were brought there not because they wanted to be there, and I just wanted to share that with my good friend.

Mr. SIRES. The reason I asked, because I was not born in this country. I was born in Cuba, and my brother and I came here when I was 11, he was 9, and the assimilation of my brother has been completely total. I mean, he couldn't tell you the difference between a mango and an apple, and this question of assimilation, this country has a way after second generation—I have a brother that was born here, which obviously his Spanish is like—well, I don't even want to say it.

But this question of assimilation is so important to this country because over the years, all the people that have come here by the time second generations come around, they have assimilated. In most cases, they have forgotten their own languages. So I just get very concerned when somebody raises that issue about the immigration in this country because they have many, many positive contributions to this country just like everywhere else immigration has gone.

Mr. DAVIES. Just two quick points, and I am not a lifetime expert on Fiji, so I am the wrong guy to go on at great length about this, but I think what the chairman had to say was important to put on the record because these historical roots are still present really in a sense in terms of the challenges that Fijians face.

But the other point is that it wasn't really a case, I don't think, where the ethnic Indians came and that anybody necessarily expected that they would assimilate into Fijian culture. I think it is

more that ethnic Fijians have tried to keep their culture distinct, and there has been a degree of cultural rub there between the two.

I personally have been impressed at how well they have managed to accommodate on both sides given the fact that it is an almost even split between the two and the fact that, as the chairman said, this is a recent vintage. So it is going to remain for them a huge challenge, but the final point I would make is it is a very different challenge, I think, that the American challenge. I think it is very, very hard to draw analogies between the two, and it would probably be a mistake for me to try to do it.

Mr. SIRE. Thank you, Mr. Chairman, for your courtesy.

Mr. FALEOMAVEGA. I want to say that I do deeply appreciate the efforts made by the administration in the application of the sanctions law toward Thailand to the extent that every effort was made to minimize in any way to put our relationship with Thailand in a bad footing, so to speak. But I have to say again in my meeting personally with the leaders of Thailand the idea that we can just say, all right, we don't like you because you are doing this, this and that. That is almost like we are dictating to other countries how they should behave.

But the fact that for all these years our close foreign relations with Thailand has been such a close, probably the closest in any of the Asian countries, in my humble opinion, but because of the nature of the law that we passed, and then how we apply this law to a country like Thailand, at least we have made every effort to take into consideration the king.

As my good friend from California said, he did not oppose the military to take over simply because the tension that was created by the former Prime Minister and his government, the corruption, and as noted also, in terms of how he tried to manipulate the system, the laws of the country for which he was able to put a little tweak in there to change a little amended law there that afterwards in the sale of this telecommunications company that he and his family owned to a Singaporean company for \$1.1 billion. Oh, lo and behold, this little amendment exempted this company from paying taxes, and all the Thai people were informed of some of these problems that the Prime Minister caused. But for one reason or another, I just want to share this.

Now I don't know about polls and all of this or that, but it seems ever since we attacked Saddam Hussein and the terrible conflict that we have caused in that country as well as in the Middle East, it is my humble opinion our reputation worldwide has not been positive, and put it in that context, what makes you think that Thailand really wants to continue to have that close relationship if this is how we kind of beat them on the head every time we disagree with the way they go about in carrying their way of life, their culture, how they implement their laws and their Constitution?

This is the concern that I sense from meeting with some of the leaders of the Asian countries. There is a magnet being drawn throughout the Asia Pacific Region toward China. China is very good about saying this is a domestic internal matter within each given country. We don't get involved.

And the more we put our noses into these kinds of situation, it seems to me, what makes us think that Thailand will say, well,

maybe we would prefer dealing with China, because at least they respect what we are trying to do as a country, as a people, in taking corrective actions on some of the problems that happens, how they administer, how they do their affairs as a government.

I want to raise that question with you, Mr. Ambassador, and maybe I am being too naive to say that, but I will say that the trend in Asia is turning more and more toward China. Maybe it is because it is a cultural thing. I don't know. Maybe it is because people in China have also had a colonial legacy to deal with in terms of how they were colonized. So there is that kind of a mentality among the Asian countries.

When you look at examples of democracies and the principles of freedom and all of that, it has not really been positive either. And who were the colonial powers that took possessions of these countries in the Asia Pacific Region? They were from Europe. And of course our own legacy as a country being a former colony, we resisted. We resisted these imperialistic views that it is our duty to God that we need to colonize these areas, and for that, I am glad that we resisted that even though there were some of our Presidents that really believed in the manifest destiny of our country.

So I want to share that concern with you, Mr. Ambassador, and how I in my recent trip to Thailand, and of course, I do want to say that I appreciate that concern and making sure that we don't—there has got to be—I honestly feel that we need to revisit the sanctions law in some way or some how, but this is the very purpose of why I am calling this hearing.

Our friends in Fiji, Mr. Secretary, as I may have already shared a little bit of history in Fiji because Fiji is only 600 miles north of Samoa. I have visited there several times, and many of the Fijians are related to us as Polynesians. The first Prime Minister of Fiji was part Tongan, Samoan and Fijian, Ratu Mara Kamisese, so we have that kinship relationship between the people of Fiji and the Samoans and the Tongans, if you will.

There is a concern that I have in terms of how we currently implement our foreign policy toward the Pacific, and Secretary Davies, as you know, I have been very critical of the fact that it seems that our policy toward the Pacific is really toward just Australia, New Zealand, and leaving the other island nations somewhat incidental, as I have said before, to our policy.

I don't know. I am sure you are aware of the fact that when this military coup took over one of the first things that New Zealand wanted to do was to cut off any form of programs for which Fiji's military forces currently are operating in the Middle East, peace-keeping forces. And guess what? It failed. Australia I believe also wanted to cut off any foreign assistance or assistance programs to Fiji in the World Bank. That also failed.

So now I have just heard from you that now that our country is supporting these very things that Australia and New Zealand are pushing. I get the impression that wherever Australia and New Zealand wants us to do we just simply tow the line and follow, Mr. Secretary?

Mr. DAVIES. Right. Well, it is true that Australia, New Zealand and the United States and indeed all of the other neighbors of Fiji, led by, of course, Sir Michael Somare of Papua New Guinea, have

taken a very tough stance to signal a lack of acceptance of this new interim government and have pivoted from that to trying to steer Fiji or help Fiji understand that the view of the Pacific Islands Forum is that they should get back to democracy as quickly as possible.

In terms of the United States, Australia, New Zealand, our policies are in general very much in concert. We agree on the fundamentals of it, but there are differences in nuance in terms of our approach to Fiji. So we are not walking in lock step, we are doing this based on United States interests, based on our commitment to democracy, based on what we think is best for the Fijians, and essentially universal principles. So that is why we have taken the decisions that we have taken.

If you look at the sanctions that Australia, New Zealand and the United States have placed on Fiji, they are actually different in some respect, so we are not—I have got to push back on that, Mr. Chairman. We are not walking in lock step with Australia and New Zealand, though we do agree in principle on how to proceed here.

But I will come back to what I said initially, which is for us, the key thing is what do the Pacific Islands, the neighbors of Fiji, the friends of Fiji most directly concerned, what do they want.

Mr. FALEOMAVEGA. Here is my problem. I didn't mean to interrupt your statement, Mr. Secretary. Australia exports over \$2.5 billion worth of goods to the Pacific Island nations. Australia also has about a \$600 million foreign aid assistance, of which half of that goes to Papua New Guinea, which is Michael Somare. So I find it difficult to say that there is no influence carried on by these two major exporters to these island nations. New Zealand exports over \$1 billion worth of goods.

But with that kind of influence, it seems to me that they really rule the roost, so to speak. They really carry a big stick, and any way they make it known to these island nations this is the way we want it done, very difficult for these island countries not to accept it simply because of the tremendous amount of foreign assistance that they get from New Zealand and Australia.

Mr. DAVIES. Yes. Well, I think it is true that both Australia and New Zealand have a tremendous influence, huge economic relationships, diplomatic relationships, cultural relationships with the Pacific Islands. But I actually have been impressed in my travels throughout the region with the sensitivity of both of those countries in dealing with the Pacific Islands.

I am sure the optic from—if you are a Tonga or you are Papua New Guinea or you are Fiji or the other is going to be a bit different, but from the standpoint of the United States I have been impressed at the sensitivity of Australia and New Zealand in, for instance, the Ramsey operation in the Solomon Islands, for instance, even though there have been some tensions there. I have been impressed with how they have dealt with the problems in Tonga.

So I have to, as I say, push back a little bit. I think they are doing a very good job, and I think that they are doing it in directions of trying to develop the Pacific Islands in ways that are going to help the Pacific Islands, and ultimately it is good for the United States because we want to see a prosperous, peaceful, democratic

Pacific, and that is what we believe Australia and New Zealand are working toward.

But it doesn't mean that they do everything we say and we do everything they say, and I don't think it means, finally, I will stop here, that they are able to push the Pacific Islands around. I don't see that. I see them trying to nurture the Pacific Islands Forum. I see them trying to help the Pacific Islands find their own way into the future, and I think we ought to be supportive of that.

Mr. FALEOMAVAEGA. A couple of years ago there was tremendous pressure on the island countries to discuss the issue of global climate, warming if you will, and as you well are aware of, Mr. Secretary, Australia and the United States are the only two countries who have not ratified the Kyoto Protocols.

So there was this meeting, and Prime Minister Howard made it known to these island nations that they are not going to be in any way—in some way to be amenable to sign onto the Kyoto Protocols, and for which they would have no way to be involved or simply because Australia is following our lead, it seems to be the perception, and as a result, the island countries were somewhat disarray simply because of Australia saying this is not the way we go.

Now, I respect you to say that pushing the—is it pushing, not the envelope, but what, the wall back? What I am simply saying, and please don't take it to suggest that I have any animosity toward Australia and New Zealand, whatever their national interests are, I respect that. The Ambassador of New Zealand to Fiji has been—what is the proper word—not deported?

Mr. DAVIES. He was declared persona non grata, that is right, yes.

Mr. FALEOMAVAEGA. And as a result of that there is a huge, a tremendous confrontation, a real bitter exchanges of communications both from the leaders of Australia and New Zealand toward Fiji, and I suppose that we are just as much a part of that whole criticism.

Is this really going to help solve the problem that Fiji has?

Mr. DAVIES. I am sorry. Is this what going to help now?

Mr. FALEOMAVAEGA. Is this going to solve the problem that Fiji has, the fact that the two most prominent countries in the Pacific Region are the two biggest opposition leaders in driving the interim government into problems that they are faced with even more now because of their lack of support from Australia, New Zealand, and even from our country?

Mr. DAVIES. Well, of course, what is interesting is that Australia, New Zealand, and the United States, we still maintain diplomatic relations with Fiji. American tourists still travel to Fiji as to Kiwis and Aussies, and there is economic activity. None of that has been cut off. The effort has been to target these sanctions really directly toward the interim government and those supporting the government, and to try to go ahead with assistance in other areas.

Mr. FALEOMAVAEGA. Well, what is ironic about this is that the Prime Minister of New Zealand has issued a travel warning or directives for people wanting to go to Fiji to be careful because of the coup government that they have there. I don't know if that has impacted the tourism industry in Fiji, but it seems that people are

going there even more because of the discounts they are getting in traveling to Fiji.

Mr. DAVIES. No, there are still tourists going to Fiji. I can tell you that. No, it is not our view that Australia and New Zealand are pushing the Pacific Islands around and forcing them to follow toughly toward Fiji. The decision that the forum reached under Papua New Guinea's chairmanship was actually quite quickly achieved, and seemed to be a fairly open consensus.

Fiji is an important country. There are almost a million Fijians, with significant economic activity. They are important not just for the country and the people of Fiji, but all Pacific Islands in the region, so it is very, very important that this coup culture that exists in Fiji not go on forever, and not, if you will, be allowed to kind of infect other parts of the Pacific. It is important that Fiji get back to democracy, and I think there is a consensus there, and it is not just Australia, New Zealand and the United States who are pushing that.

Mr. FALEOMAVAEGA. You don't think there was any arm twisting or any undue influence on the part of the Australian leadership—

Mr. DAVIES. No.

Mr. FALEOMAVAEGA [continuing]. Towards Prime Minister Kamisese?

Mr. DAVIES. I don't. I don't. I honestly don't.

Mr. FALEOMAVAEGA. Well, I appreciate that.

Congresswoman Watson had made an observation that there seems to be a close ethnic relationship between the indigenous Fijians and those from Africa because of the shells. Interestingly enough, chicken bones, and this is the most unusual thing now, archeology recently discovered chicken bones in some of the ancient villages in the Solomon Islands, and they found out that the chicken bones that were found in these ancient villages in the Solomons are the same chicken bones found in Chile. Does that suggest that there may be a connection between the Polynesians and the people living along the coastline there in South America?

Mr. DAVIES. Maybe globalization is not new.

Mr. FALEOMAVAEGA. No, it is not.

Gentlemen, I have been putting you through a lot, and I think I am really appreciative of the participation of some of my colleagues and the members of this subcommittee, and I cannot thank you both enough for being here at such an early hour and trying to share with us not only the administration's position, but your best professional judgment in terms of some of the issues that we are trying to take up here on the Hill.

I will say right now for the record I ask unanimous consent that all of your statements will be made part of the record, and any other related materials will also be made part of the record. Also, Congressman Kirk's statement will also be made part of the record, and any related materials relating to his testimony will also be added.

I will also add for the record an official correspondence that was received by me from the Ambassador of Thailand, and I believe also the foreign minister with some of the related materials in response to Congressman Kirk's proposed legislation in dealing with

the problem with Abbot Laboratories, so this will also be made fully part of the record. And I am going to request that our friends from the Thai Embassy will assist me in bringing those materials to be made part of the record.

Gentlemen, I wish I had some kalua pig for you or something to assist you on your visit here this morning, but I sincerely hope that we will continue this dialogue. I have such a tremendous respect for both of you and the job that you are doing not only for our country but in serving the people of these regions that you work so hard in. So again thank you for being here.

The subcommittee is adjourned.

[Whereupon, at 10:57 a.m., the subcommittee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD



Press Release

Constitution Drafting Committee Constitution Drafting Assembly

http://www.parliament.go.th/parcy/supa_db/committee_con/index.php

Highlights of The Draft Constitution B.E

The Draft Constitution of the Kingdom of Thailand B.E... has been written with an aim of taking the Kingdom back to a full democracy, with a general election expected within 2007. It seeks to correct the weaknesses inherent in the 1997 Constitution, which led to monopoly and abuses of State powers, political mismanagement that lacked transparency, good governance, and ethics; to failure to scrutinize the exercise of State powers and inadequate protection of the rights and freedoms of the people.

The present Draft Constitution addresses those problems on four fronts, including:

1. Protection, promotion, and expansion of the rights and freedoms of the people;
2. Reduction of concentration of power and elimination of its abuses;
3. Making politics transparent, moral and ethical; and
4. Strengthening and increasing the effectiveness of the scrutiny process by making the scrutiny bodies freer, stronger, and more efficient.

1. Protection, promotion, and expansion of the rights and freedoms

A constitution does not belong to just a handful of people or politicians, but should belong to all people. It should give political space to all and encourage all to participate in determining their own destiny.

1.1. The present Draft Constitution provides more rights and freedoms than the 1997 Constitution. The new features include:

- Recognition of the rights and freedoms of international conventions, to which Thailand is party, with the same binding effect as those provided in the present Draft Constitution (Section 4);
- Protection of the privacy of personal information (Section 35);
- Increase of rights in the criminal justice process through reform to improve access to the justice process, making it easier, quicker, more convenient, and more widely available at reasonable costs. Children, youths, women, the old, and the disabled and handicapped will get appropriate protection in the criminal procedure (Section 40). And more significantly, for the first time the people will have the right to bring a case before the Constitutional Court directly;
- Legislation for the first time of labour rights to safety and welfare at work and security of employment during and after employment (Section 44);

- Greater protection of the rights and freedoms of the press than ever before, prohibiting not only closure of mass media, but also interference in the presentation of information, directly or otherwise (Section 45 and Section 46); prohibiting ownership or share-holding in mass media by holders of political office to prevent the use of mass media to advance their own personal benefits (Section 47 paragraph five);
- Twelve years of free education with special support for the needy, the disabled or handicapped, or those in financial difficulty so that they may receive education on par with others (Section 48). In addition, there will be educational courses and trainings by vocational units and the private sector. Alternative education, self-education, and learning as a life-long process will also receive support (Section 48);
- Children, youths, and family members to enjoy more rights for physical, mental, and intellectual development compatible with their potential and environment (Section 51);
- Persons without a home or adequate income to have the right to receive State aids for the first time (Section 54);
- Extension of community rights to cases where individuals get together, with duration not long enough to be an original local community (Section 66 paragraph one). Further, before undertaking any project or activity which may cause serious environmental damage, the public, particularly those directly affected, will have to be consulted (Section 66 paragraph two). The community can sue a government agency, State agency, State enterprise, local government, or other State agency which is a juristic person to ensure compliance with the community rights provisions (Section 66 paragraph three);
- Rights for the people to monitor and to demand scrutiny of the performance of duties of a holder of political office - first time ever (Section 61 paragraph one), including access to detailed contents of Bills being considered by the National Assembly (Section 138 paragraph five) in addition to the right of access to official information (Section 55);
- Public hearings to be required before signing any international agreement with an impact on the people. After signing the agreement, the State has to give the people access to the detailed contents of the agreement signed and promptly provide remedies for those adversely affected in a fitting and just manner (Section 186 paragraph two and paragraph four); and
- People of 100,000 or more to be able to petition to get the Constitution amended - another first (Section 281(1)).

1.2 To make the exercise of rights easier through the following measures:

- Rights and freedoms are arranged in a clear and readable form: rights and freedoms of individuals (Section 32-Section 38), rights

of the criminal justice, rights of information and complaint (Section 55-Section 61), rights of community (Section 65-Section 66), rights to uphold the Constitution (Section 67-Section 68), etc;

- Rights and freedoms provided in the Constitution may be invoked even if they have not been enacted; the people may exercise those immediately in courts (Section 28 paragraph three);
- The State has to promote, support, and help the people to exercise rights and freedoms (Section 28 paragraph four); and
- The number of signatures needed to recall a holder of political office will be reduced to 20,000 from 50,000 (Section 160 and Section 262 paragraph three).

1.3 Making the exercise of rights and freedoms more efficient with clear safeguards:

- Removing the phrase “as provided by law” from all Sections on rights and freedoms, which means the provisions of the people’s rights and freedoms take immediate effect upon the passage of the Draft Constitution, not pending their enactment;
- Placing a time limit on enactment of organic-law Bills, so as to prevent those in authority from delaying their passage to restrict rights and freedoms (Section 293 and Section 298);
- Giving the people the right to bring before the Constitutional Court directly cases involving violation of the rights and freedoms provided in the Constitution (Section 208);
- Giving a community the right to bring cases involving violation of the rights and freedoms directly before the Constitutional Court (Section 66 paragraph three); and
- Allowing the National Human Rights Commission initiate legal action in the Constitutional Court and the Supreme Administrative Court where a law, rules, or injunctions contravene the Constitution, or human rights have been violated, doing so on behalf of the injured party (Section 248(1) and (2)).

1.4 Making the Directive Principles of the Fundamental State Policies explicit all round and more binding than before on the government by:

- Clearly differentiating the Chapter on the Directive Principles of the Fundamental State Policies to cover all aspects, including security, religion, society, education and culture, law and justice, international affairs, economy, land, natural resources and environment, science, intellectual property, energy, or public participation;
- Increasing the Principles of the Fundamental State Policies in key areas. *Inter alia*, the State has to develop a work system that stresses development of quality, morality and ethics of its staff; has to encourage the State agencies to adopt good governance; has to

undertake law and criminal justice reforms (Section 80(5), (6)); has to encourage and support the philosophy of sufficiency economy (Section 82); has to restructure the tax and duty system to make it more equitable (Section 83(3)); has to protect the interests of farmers in production and marketing (Section 83(9)); has to provide basic public utilities and make sure they do not fall into private monopoly (Section 83(11)); has to regulate land uses based on professional principles, covering lands and waters throughout the country; has to give farmers land-use rights widely (Section 84), etc; and

- Requiring the in-coming government to declare its policy to the National Assembly ensuring that it is in line with the Directive Principles of the Fundamental Policies, stating setting out clearly what it plans to do and the related timeframes. In addition, it has to submit an annual report to the National Assembly documenting the implementation progress and results as well as problems or obstacles encountered over the past year.

1.5 Allowing public participation in the administrative activities of the local government and greater decentralization of powers to local governments so as to make them the bedrock of democracy at the national level.

- The local government has complete freedom to manage its own affairs in all aspects, including organization of public services with variety and diversity (Section 274 paragraph one) and determination of its own administrative structure to suit the local conditions and needs (Section 275 paragraph nine).
- Personnel management of the local government will be reformed such that the personnel will have the status of civil servants like their counterparts at the national level, with their own committees independent of the central government's control, powers to transfer personnel across agencies, and their own ethic committee as well (Section 279).
- Public participation at the local level will be boosted, allowing local residents to hold referendums on local matters of importance (Section 278 paragraph one and paragraph two), reducing the number of signatures required to recall a holder of local political office and to legislate local ordinances (Section 276 and Section 277), making the local government inform the public with respect to budgeting, spending, and performance so that the latter can take part in scrutinizing and monitoring its management (Section 278 paragraph three).
- The supervisory and monitoring system of the local government will be restructured to improve its efficiency, adopting a common standard so that the administration can operate independently, giving due consideration to the suitability and difference in development levels and management efficiency of the area. The

local authority is to be encouraged to determine its own *modus operandi* according to its needs and to set up their scrutiny mechanism (Section 273 paragraph two).

2. Reduction of concentration of power and elimination of its abuses

The 1997 Constitution wants a strong and efficient government, which is well and good. However, if the strength and efficiency is concentrated in the hands of one single person, it can easily lead to abuses of powers, as it obviously did. It is therefore necessary to reduce concentration of power and adjust the balance of power. This the new Draft Constitution tries to do by the following measures:

2.1 Empowering the people so that they become players, not watchers on the sideline by virtue of the numerous Sections cited in Part 1, for example:

- Allowing public participation in all political spheres, e.g., in administering affairs of the State (Section 55, Section 138 paragraph five, and Section 186 paragraph two), holding referendum on important issues (Section 161), and amending the Constitution (Section 282 paragraph one);
- Giving the people and the community power to sue the State for improper use of powers (Section 208 and Section 66 paragraph three); and
- Making it easier for the people to exercise their rights, e.g., reduction in the number of signatures required to recall a politician and to propose a law both at the national and local level (Section 159, Section 160, Section 276, and Section 277).

2.2 Preventing monopoly and abuse of State powers by the government as follows:

- The Prime Minister can only serve two terms or eight years (Section 167 paragraph three);
- In issuing a Royal Decree, the government will be subjected to scrutiny by the Constitutional Court. Not something to be done at whims and fancy, such legislation is reserved only for unavoidable emergency, not just to evade the scrutiny of the National Assembly (Section 181);
- A Chapter on money, finance, and budget is to be added - the first ever in Thailand - to prevent undisciplined spending and creation of a financial burden on the future government and on the country (Section 162 to Section 166). Under the present Draft Constitution, the government is required, specifically in its budget statement, to clearly state objectives, activities, plans, and projects (Section 163 paragraph one); spending from the central budget will be capped and must be justified on the basis of necessity (Section 163 paragraph two);
- The National Assembly, courts, and statutory Independent Agencies can request amendment directly to Parliamentary committees so that the government can no longer use budget appropriations as a bargaining chip (Section 164 paragraph nine). Similarly, the statutory agencies can table

amendment to its own regulations to the National Assembly directly and unobstructed by the government (Section 138(3));

- The Office of Public Prosecutors will be independent from the government and can thus inspect the exercise of State powers without the government's interference, especially in proceedings against holders of political office (Section 246); and
- The scope of responsibilities of the care-taker government will be defined clearly such that it will not be able to interfere with civil servants' performance of duties, nor to use State apparatuses to support any political party or any candidate in a general election (Section 177).
- Merger of political parties with sitting members is prohibited during the term of the House to prevent excessive majority (Section 99).

2.3 Giving good people a chance to sit in the House of Representatives and freeing the members of the House from the undue influence of their party so that they can fully and truly represent the interests of the electorate and country, with the following provisions:

- The electoral system of the House of Representatives will be changed. Constituencies will be larger so that good candidates can compete in a more level field with their moneyed counterparts. The party-list system will be replaced by proportional representation with constituencies based on provincial groupings rather than the whole country, which will prevent excessive concentration of representatives from the central region. The 5% cutoff rule will also go, which will give small parties a better chance, thus conducive to political diversity.
- Members of the House of Representatives will be free from parties' resolutions in interpellating, debating, and even voting on a motion of no confidence (Section 158 paragraph two); and
- Members of the House of Representatives will be able to table a Bill without his or her own party's permission (Section 138(2)).

2.4 Members of the Senate will be free from the dominance of political parties since they will be **selected** from provinces and, separately, from occupational groups (Section 106), **not** through election which is prone to political meddling. With the proposed selection process, Thai politics will cease to be the exclusive preserve of elected politicians, but will belong to the people from diverse backgrounds, areas, occupations, and genders while opening up opportunities to the socially underprivileged as well (Section 108 paragraph two).

2.5 Members of the House of Representatives and of the Senate are prohibited from intervening and interfering with the performance of duties by civil servants to advance their own or party's interests, directly or otherwise, as well as in posting, appointment, move, transfer, promotion or salary increases (Section 257).

3. Making politics transparent, moral and ethical

Political transparency, morality and ethics were in serious deficit in the 1997 Constitution. Flouting those rules, the ruling politicians used all tricks and cunning to get round the law, breed conflict of interests, and enrich themselves on the back of hardships of the nation and people. For good governance, the present Draft Constitution offers the following solutions:

3.1 A clearly written Chapter on morality and ethics for holders of political office and State officials

- The ethics for holders of political office and State officials will set a clear code of conduct and criteria, apparatus, and system for efficient performance of duties, complete with a penal procedure for breaches of the code (Section 270 paragraph two); and
- A serious breach will, under the present Draft Constitution, result in removal from office (Section 270 paragraph three).

3.2 Measures to prevent political conflict of interests:

- Members of the House of Representatives and of the Senate are not permitted to hold any position in the civil service, State agencies, State enterprises, local councils, or as an administrator or civil servant in the local government. They must not receive, infringe, and interfere in the award of concessions from the State, civil service agencies, State agencies or enterprises, or be a partner in contract with the State, civil service agencies, State agencies or enterprises construable as monopoly, collusion, or partnership or holding shares in companies that obtain concessions or be a partner in contract thereof, directly or otherwise. They are not permitted to receive any payments or benefits from civil service agencies, State agencies or enterprises beyond what the civil service agencies, State agencies and enterprises offer others in a comparable business deal. Nor are they permitted to be partners or shareholders in companies involved in mass media, or partners in contract (Section 256);
- The Prime Minister, ministers, spouse, and minor offspring are prohibited to be a partner or a shareholder in partnership companies or companies, or to retain partnership or shares in the partnership companies or companies in amounts as specified by law. If the Prime Minister or a minister wishes to continue to receive the said benefits, he or she must inform the President of the National Counter Corruption Commission within 30 days of his or her appointment to office. He or she must transfer all the shares into a trust to be managed by an assets management company as required by the law. And he or she must refrain from any act that bears the resemblance of management of the shares or in the activities of the company in question (Section 260).

3.3 Stricter rules over the declaration of assets and liabilities for the holder of political office. Apart from his or her own, his or her spouse's, and minor offspring's, the amounts declared must include assets entrusted to others as well, directly or otherwise (Section 250). Just like ministers, members of the House of Representatives and of the Senate are also required to disclose their wealth to the public (Section 252).

3.4 Easier removal of members of the House of Representatives, of the Senate, the Prime Minister, and ministers on judgment by the court

- Upon the final judgment of imprisonment by the court, regardless whether it is a suspended sentence or not, a member of the House of Representatives or of the Senate is considered officially removed from office except in the case of negligence or minor offence (Section 119(4)).
- Upon delivery of a prison sentence regardless whether a final judgment or a suspended sentence, the Prime Minister or the minister is considered officially removed from office, except in the case of negligence, a minor offence, or defamation (Section 178(4)).

3.5 The President and Vice-President of the House of Representatives, the Prime Minister and ministers are prohibited from engaging in anything that bears the characteristics of a conflict of interests.

- The President and Vice-President of the House of Representatives are not permitted to concurrently hold an executive post in a political party (Section 119 paragraph six).
- The Prime Minister and ministers are not permitted to vote on matters relating to post assignment, performance of duties, or being party to the benefits thereof (Section 173 paragraph three).

4. Strengthening and increasing the effectiveness of the scrutiny process by making the scrutiny bodies freer, stronger, and more efficient

The scrutiny bodies and statutory Independent Agencies, which were the high hope of the people in the 1997 Constitution, were subjected to heavy political meddling and in the event failed to discharge their duties effectively. They stand in need of restructuring.

4.1 The selection process for the scrutinizing bodies must be restructured, and persons of independence recruited. Under the Draft Constitution, the Selection Committee will comprise the President of the Constitutional Court, the President of the Supreme Court, the President of the Supreme Administrative Court, the President of the House of Representatives, and the Opposition Leader.

4.2 The powers and duties and the way the scrutinizing bodies work must be improved. The Draft Constitution proposes the following measures:

- Under the Draft Constitution, the Constitutional Court will be vested with the power to consider cases of rights and freedoms violation brought before it directly by the people (Section 208).
- The Division of the Prosecution of Holders of Political Office of the Supreme Court will consider cases of politicians accused of not declaring their assets and liabilities or cases involving falsification of assets and liabilities declared (Section 254 paragraph two).
- The National Counter Corruption Commission will only handle cases involving high-ranking political officer holders and civil servants so as to increase its efficiency (Section 243(3)).
- Ombudsman may initiate lawsuits where public damage has occurred or public interests must be protected without waiting for complaints (Section 237(1) paragraph two).
- The National Human Rights Commission is also to receive a boost in power as it will be allowed to bring cases before the Constitutional Court and the Supreme Court if any a law, ordinance, decree, or act contravenes the Constitution; and to act for and on behalf of the injured party whose human rights have been violated (Section 248(2) and (3)).
- The National Economic and Social Advisory Council will give comments on all Bills (Section 249).
- The statutory Independent Agencies, the National Assembly, and the courts can amend their own budgets directly before the Parliamentary committees (Section 164 paragraph nine).
- Members of the House of Representatives can censure the Prime Minister more easily if they can gather votes of one quarter of the total number of the existing members of the House (Section 154 paragraph one). They can also lodge a no-confidence debate against a minister who has moved to another cabinet post to avoid sanctions (Section 155 paragraph two and paragraph three). Both the Prime Minister and ministers can now be made to answer questions in person on the House floor (Section 158).
- The Office of Attorney-General will be separated from the government so that it can work more independently in the scrutiny of the exercise of State powers (Section 246).

4.3 Setting up a system of scrutiny over the performance of the statutory Independent Agencies

- Issue of a “red card” and “yellow card” by the Election Commission can be appealed to the Supreme Court. Similar problems at local government elections can be dealt with by the provincial appellate court or regional appellate court (Section 233).

- Rules, orders, or other actions of the statutory bodies relating to the application of law or to performance of administrative duties can be scrutinized by the Supreme Administrative Court (Section 218 paragraph one).
- Ombudsman will have power to investigate negligence of duties or misfeasance of other statutory agencies or agencies within the justice process (Section 237(1)(d or n)).

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Prepared for dissemination by
CDC Spokesmen Team
April 19, 2007

Fact sheet on the current situation in Thailand (as of 27 July 2007)

- Background
 - Political change of 19 September 2006
 - Rationale
- International commitment
- Political developments
- Constitution drafting process
- Key facts on Government's policy
- Some key economic confidence indicators

Background:

- Political change of 19 September 2006

- Political change in Thailand was undertaken by the "Council for Democratic Reform" (CDR) without any violence or resistance. The incident has caused minimal disruption of normal life. There has been general public acceptance to the change, as evidenced in polls conducted by independent agencies after the incident, such as the Suan Dusit Poll (83.98 % of respondents agreed with the change and 75.04% felt that its effects will positively impact Thai politics).
- The CDR clearly stated their intention not to take up governmental power, and affirmed their determination to undertake only brief intervention in order to restore peace, unity, and justice in the country.
- From the beginning, the CDR had firmly declared that an *interim constitution* would be in place within 2 weeks, and that a civilian government would be formed. Timeline for political transition has been set, leading to the holding of free and fair general elections.
- Under the Interim Constitution promulgated on 1 October 2006, the CDR was transformed into the "Council for National Security" (CNS) to provide advice for the government while retaining only certain security functions. After the new Cabinet was appointed on 8 October and sworn in on 9 October 2006, the CNS handed over administrative power to the government.

- Rationale

- The CDR cited the following reasons for undertaking this mission :
 - Lack of political confidence in Thailand and impasse of political differences
 - Drastic increase in disunity among Thai people
 - Signs of rampant corruption, malfeasance and widespread nepotism
 - Inability to proceed with the reform process as intended by the Constitution
 - Interference into national independent agencies, crippling their ability to function properly and to effectively solve the nation's problems
 - Certain substantive democratic elements in the Constitution have been undermined
 - Deterioration of social justice.

- Given the aforementioned reasons and the possibility of the deterioration of the situation, and further damage, which could not be resolved by the previously existing mechanisms, the CDR was compelled to take action.
- The CDR's intervention had no other aim than to strengthen democracy through democratic reforms, above all, the holding of free and fair elections. Leaving the country under protracted political uncertainty and in prolonged state of division, on the other hand, would eventually erode people's trust and confidence in the very foundations of democracy.

International commitment

- Thailand reaffirms adherence to the UN Charter and remains committed to obligations under international treaties and agreements, under the basis of the equality of states.
- Thailand's foreign policy remains unchanged. The existing relationship between Thailand and other countries shall continue to be fostered and enhanced.
- Thailand's international economic policy, including multilateral trade negotiations and free trade agreements, will continue. On 3 April 2007, the Government signed the Japan-Thailand Economic Partnership Agreement (JTEPA) with Japan. The Agreement is undergoing the domestic process of respective countries and will enter into force 30 days after the two Governments exchange diplomatic notes to that effect.

Political developments

- Following the political change on 19 September 2006, continual progress has been made in accordance with the timeline for political transition announced by the CDR.
- The Interim Constitution was promulgated on 1 October 2006. Later that same day, General Surayud Chulanont was appointed the 24th Prime Minister of Thailand. The CDR was transformed into the CNS.
- The Cabinet, comprising 24 Ministers, was appointed on 8 October 2006 and sworn in on 9 October 2006. The administrative power was thus handed over the Government. Afterwards, 9 more Ministers were subsequently appointed to the Cabinet.
- In accordance with the Interim Constitution, the National Legislative Assembly (NLA) was established to be responsible for legislation. 242 members from the public, private, social and academic sectors, from various regions, were appointed to the Assembly on 11 October 2006. The NLA convened its inaugural session on 20 October 2006 and elected its President (Mr. Meechai Ruchapan) and Vice Presidents on 24 October 2006.
- In carrying forward with the democratic reform, the National People's Assembly (NPA) was established on 9 December 2006, with 1,982 members, comprising representatives from all sectors of the society and regions of the country. The NPA

convened its first session on 17 December and met on 18 December 2006 and selected from among themselves 200 representatives, from whom 100 persons were subsequently selected to form the Constitution Drafting Assembly (CDA). The 100 members of the CDA were formally established on 1 January 2007 and convened its first meeting on 8 January 2007.

- The 35-member Constitution Drafting Committee (CDC), to be in charge of the drafting of the Constitution, was formed with 25 members selected by the CDA and another 10 members appointed by the CNS.
- In the meantime, all but a few of the main mechanisms continue to function to ensure checks and balances and the speedy reestablishment of the workings of the democratic system. Fundamental rights and freedoms are guaranteed under the Interim Constitution.
- The tentative date for the general election to be held by end of 2007 is 16 or 23 December 2007. Prime Minister Surayud Chulanont, after his meeting with the Chairman of the Constitutional Drafting Assembly and that of the Election Commission on 20 June 2007, also indicated a possibility of holding the election earlier on 25 November 2007, underscoring the Government's commitment to supporting the holding of the general election by year's end.
- On 5 June 2007, the Cabinet agreed to lift the ban on political activities, which had been in place since 21 September 2006. Hence, existing political parties are allowed to conduct their meetings and other activities of a political nature. On 18 July 2007, the National Legislative Assembly also approved the draft law submitted by the Government to allow the formation and registration of new political parties. The law will come into force upon being published in the Government Gazette.
- In line with the policy to advance political reform, the Government has set up two committees, comprising academicians, officials and NGO members, to promote people's participation in the constitution drafting process by providing forums to listen to public inputs, and to promote political education for the public.

Constitution drafting process

- On 19 April 2007, the CDC published the initial draft of the new Constitution on the Internet and newspapers, in keeping with the timeframe it had set for itself. The official handover of the draft for inputs from various institutions as stipulated by the Interim Constitution took place on 26 April 2007.
- The first draft of the Constitution underwent extensive consultations with the CDA and relevant bodies and organizations as well as the public. All inputs have been gathered and taken into account in the revision of the draft by the CDC and the CDA. On 12 June 2007, the CDC released its revised draft and submitted it for the CDA's deliberation.
- Based on the timeline set forth in the Interim Constitution, the CDA approved the draft Constitution on 6 July 2007. The revised draft has been disseminated to the public and will be put to the national referendum which will be on 19 August 2007.

- Meanwhile, the CDC plans to submit the draft organic laws necessary for the organization of the general election to the NLA on 19 August 2007. According to the Interim Constitution, the CDC must prepare such organic laws and present them to the NLA within 45 days after the completion of the draft, and that the NLA must give approval within 45 days after receiving them.
- Extensive consultations with various organizations and persons as well as the general public have been carried out to disseminate information and solicit views. In this regard, the CDA has set up committees tasked with disseminating information, organizing the national referendum as well as promoting public participation and seeking public opinions in each region of the country. Efforts will be continued to inform the public about the contents of the draft Constitution and the importance of the national referendum.

Key facts on Government's policy

- The Government presented its policy to the National Legislative Assembly on 3 November 2006, in keeping with Thailand's administrative tradition of democratic government. The policy statement addresses 5 major aspects of the present administration, namely, political, economic, social, foreign affairs and national security.
- The priority issues on the national agenda for the Government are strengthening national unity and resilience and addressing the situation in the South through peaceful means and the rule of law. The Government has also set a reform agenda with four major themes with a view to helping Thailand become a more transparent, efficient, productive, equitable and sustainable society. These are successful political reform, restoration of national unity, closing the income gap between the rural majority and the urban middle class, and strengthening the rule of law.
- The administration of the Government will be guided by four main principles: transparency, justice, economy of resources and efficiency.
- The Government will maintain the economic momentum and pursue development through market-based economic policy. The philosophy of "Sufficiency Economy" will be applied to complement the pursuit of a balanced and sustainable economic growth, facilitate smooth integration into the global economy, and prevent recurrence of a crisis similar to that in 1997.
- The Government will continue to enhance relations and cooperation with other countries and adhere to Thailand's international obligations and commitments, including those under the United Nations.
- As declared in the Prime Minister's statement before the National Legislative Assembly on 24 May 2007, the Government intends to focus on 6 key areas during the next six months of its administration. These include: 1) supporting the constitution drafting process and conduct of a general election, including promoting people's awareness about democracy; 2) promoting social harmony, including in the Southern Border Provinces; 3) enhancement of friendly and mutually beneficial

relations with other countries, including, among others, promoting trust and confidence with neighbouring and Muslim countries with a view to addressing trans-border problems as well as resolving the situation in the Southern Border Provinces; 4) promoting sufficiency economy and human development on a continuous basis, including educational reform and development of public health quality; 5) promoting efficient knowledge- and innovation-based economic system, including development of logistical system and investment in alternative energy sources; and 6) building confidence for sustainable and balanced economic growth.

Some key economic confidence indicators

- According to the figures releases by the National Economic and Social Development Board (NESDB) on 4 June 2007, the Thai economy in the first quarter of 2007 expanded by a stronger than expected rate of 4.3% from a year ago. Despite the slowdown in domestic demand, exports of goods and services continued to grow significantly. The overall economy remained stable with inflation averaging at 2.4%. Unemployment rate also remained stable at 1.5% while current account balance recorded a surplus of 5.4 billion US dollars.
- The NESDB has also forecasted that the Thai economy will grow by 4.0-4.5% in 2007, as it expects boost from the upturn of private consumption and investment in the second half of the year. Other supportive factors include decrease in interest rate and inflation rate, effective disbursement of government expenditure and an investment from state enterprises and export sectors.
- Export performance in June 2007, as announced by the Ministry of Commerce, continued the trend of strong growth at 17.7% year-on-year. The export figure in June 2007 was 12,852.2 million US dollars with trade surplus of 866.8 million dollars. For the half of 2007, therefore, Thailand's exports were valued at approximately 71.59 billion US dollars, resulting in trade surplus of 5.49 billion US dollars, as compared to trade deficit of 2.2 billion US dollars during the same period of 2006.
- Foreign direct investment (FDI) continues to flow in. FDI was valued at 14 billion US dollars in 2006. Net project approvals by the Board of Investment (BOI) during the first 5 months of 2007 was valued at over 3.6 billion US dollars, increased from the same period of last year, which was about 2.5 billion US dollars. Applications for BOI privileges in the first 5 months of 2007 totalled 5.88 billion US dollars, up from 3.28 billion US dollars in the same period of last year. In addition, the survey conducted by Sasin Graduate Institute of Business Administration released on 18 June 2007 indicated that foreign investors, especially those from Japan, Taiwan, Singapore and the United States, remain positive about the business and investment climate in Thailand. Of the 541 promoted and non-promoted foreign companies surveyed, 43% said they planned to keep their existing investments, while another 35% said they intended to expand their business. 18% took a "wait and see" approach.
- Meanwhile, leading rating agencies, including Standard & Poor's, Fitch Rating and Japan Credit Rating Agency, have affirmed stable credit rating outlook for Thailand.
- On 10 July 2007, Standard & Poor's announced that it has reaffirmed Thailand's long-term foreign currency issuer default rating (IDR) and long-term local currency

IDR at BBB+ and A respectively. It has also affirmed the short-term foreign currency IDR on Thailand at A-2 and short-term local currency IDR at A-1. The trend for sovereign creditworthiness maintains stable outlook. The ratings are supported by the country's strengthening external financial position and improving public finances, including prudent financial management and reduced sovereign debts. There is also an expectation that the political situation will soon return to normalcy.

- The study titled MasterCard Worldwide Centres of Commerce, released for the first time on 12 June 2007, ranks Thailand 36th among the world's top centres of commerce, and second in Southeast Asia after Singapore. The study was compiled from research by a panel of top independent economic, urban development and social science academics from around the world. It rated 63 cities according to their legal and political framework, economic stability, ease of doing business there, financial flows, standing as a business centre and as a centre of knowledge and information.
- Thailand remains a prime destination of tourists worldwide. During the first quarter of 2007, 3,780,000 tourists visited the country, according to the preliminary data from the Tourism Authority of Thailand. This was a 4.4 per cent year-on-year increase. The recent surveys conducted by travel associations and magazines are instructive:
 - On 1 May 2007, the "Asia Travel Intentions 2007" survey, conducted by Visa International Asia Pacific and the Pacific Asia Travel Association (PATA), found that 52 per cent of more than 5,000 international travelers questioned from 10 key travel markets around the world were considering Asia as their next travel destination, and about 47 per cent had been to Thailand before. Thailand was also rated the No.1 destination on travellers' holiday lists, and at least half of the respondents in each market surveyed chose Thailand as their most likely holiday spot. PATA's report on the Asia Pacific Tourism Forecasts 2007-2009 also notes that Thailand will be one of the biggest beneficiaries of tourism revenue, gaining almost US\$ 13 billion out of the more than US\$ 110 billion which 18 Asia-Pacific destinations are expected to receive over the next three years.
 - On 10 July 2007, Travel & Leisure Magazine announced the results of its 12th Annual World's Best Awards Readers' Survey, which rank Bangkok third on the list of the world's best cities.

As of 25 July 2007

Progress in returning Thailand to a full-fledge parliamentary democracy

Timeline and steps as announced or stipulated in the Interim Constitution	Status
Promulgation of Interim Constitution - After 19 September 2006, the Council for Democratic Reform (CDR) declared a tentative timeline that an <i>interim constitution</i> would be promulgated within 2 weeks and that a civilian government would be formed.	1 October 2006 - The Interim Constitution was promulgated.
Appointment of Prime Minister	1 October 2006 - The Prime Minister was appointed.
Formation of Council of Minister	8 October 2006 - The Council of Ministers, chosen by the Prime Minister, were appointed. 9 October 2006 - The Council of Ministers was sworn in and assumed administration of the country.
Formation of National Legislative Assembly (NLA) - The NLA was to comprise no more than 250 members selected from government, private, social and academic sectors from various regions.	11 October 2006 - 242 members of the NLA were appointed 20 October 2006 - The NLA convened its first session.
Convening of National People's Assembly (NPA) - The NPA was to comprise no more than 2,000 members of Thai nationals from government, private, social and academic sectors from various regions.	9 December 2006 - 1,982 members of the NPA were appointed. 17-18 December 2006 - The NPA convened its meeting.
Formation of Constitution Drafting Assembly (CDA) - The NPA was to nominate a list of 200 persons for selection to form the Constitution Drafting Assembly <u>within 7 days as from its first meeting</u> (by 23 December 2006). - The Council of National Security was to select 100 persons from the list to form the CDA.	18 December 2006 - The NPA ⁸ nominated a list of 200 persons selected from among themselves for the CDA. 1 January 2007 - The 100 members of the CDA were appointed. 8 January 2007 - The CDA convened its first session.
Start of Constitution drafting by Constitution Drafting Committee (CDC) - The CDC was to be formed with 25 members selected by the CDA and 10 members proposed by the CNS.	25 January 2007 - The CDC convened its first meeting. 19 April 2007 - The first draft Constitution was released. 26 April 2007 - The CDC formally presented the first draft for inputs from the bodies, as stipulated in the

Timeline and steps as announced or stipulated in the Interim Constitution	Status
<p>- The CDC was to consider the inputs from the consultations process within 30 days as from the date of the formal presentation of the draft and revise the draft (= by 25 May 2007).</p>	<p>Interim Constitution, and public hearing.</p> <p>27 April - 25 May 2007 – The CDC conducted the consultations and public hearing before considering inputs and revise the draft.</p> <p>10 June 2007 – The CDC submitted the revised draft to the CDA for deliberation.</p>
<p>Completion of the draft Constitution</p> <p>- The CDA is to complete the draft Constitution <u>within 180 days as from its first session</u> (= by 6 July 2007).</p>	<p>6 July 2007 – The CDA approved the draft Constitution.</p> <p>– The draft was for publication. It has been circulated to the public and made available on website.</p>

Next steps

Timeline and steps as announced or stipulated in the Interim Constitution	Tentative work programme
<p>National Referendum on the draft Constitution</p> <p>- The CDA is to publish and disseminate the draft Constitution to the public.</p> <p>- The CDA is to organize a national referendum on the draft Constitution <u>not earlier than 15 days and no later than 30 days as from the dissemination of the draft</u>. (During the Briefing for Diplomatic Corps on 25 September 2006, the CDR indicated tentative timeline for process of drafting and approving a constitution as 8 months 15 days.)</p>	<p>By 31 July 2007 – The draft Constitution will be officially released by publishing in the Government Gazette.</p> <p>19 August 2007 – The national referendum will be organized. (initially scheduled to be held by 3 September 2007).</p>
<p>- <i>If the draft Constitution is approved</i> by majority vote of people with voting rights, the President of the National Legislative Assembly shall present it to the King. When the King has affixed signature thereon, it shall come into force upon publication in the Government Gazette.</p> <p>- <i>If the draft constitution is rejected</i> by majority vote of people with voting rights, the Council for National Security shall hold a joint meeting with the Council of Ministers to consider and revise one of the previous Constitutions within 30 days as from the date of the referendum and present it to the King for signature to promulgate as the Constitution. (= by 17 September 2007)</p>	<p>Tentatively by 31 August 2007 – The new Constitution will come into force when published in the Government Gazette.</p> <p>By 17 September 2007 – One of the previous constitutions will be revised and presented for promulgation as the new Constitution.</p>
<p>Drafting of organic laws</p> <p>- The CDC is to prepare organic laws for the benefit of</p>	<p>19 August 2007 – The CDC will</p>

Timeline and steps as announced or stipulated in the Interim Constitution	Tentative work programme
<p>holding a general election and present them to the NLA <u>within 45 days as from the completion of the draft Constitution</u> (= by 19 August 2007).</p> <p>- The NLA is to consider and approve the draft organic laws <u>within 45 days as from the date on which the draft laws are received</u> (= by 2 October 2007).</p>	<p>submit draft organic laws necessary for holding a general election to the NLA.</p>
<p>Free and Fair General Election</p> <p>(During the Briefing for Diplomatic Corps on 25 September 2006, the CDR indicated that work towards a new Constitution would lead to free and fair general election within one year.)</p> <p><i>Note: The draft Constitution, approved by the CDA, provides that the election be held within 90 days as from the date on which the necessary organic laws enter into force.</i></p> <p><i>The draft Constitution also stipulates that the House of Representatives must convene its inaugural session within 30 days after the general election, and that the House of Representatives must approve the nomination of the Prime Minister within 30 days as from their inaugural session.</i></p>	<p>By end 2007 – The general election will be held. (Tentatively scheduled for 16 or 23 December 2007, but, if possible, an earlier date of 25 November 2007 also mentioned).</p> <p>By January 2008 – The election for senators will be organized (76 out of 150 as provided for in the draft Constitution).</p> <p>Tentatively by March 2008 – The new Prime Minister will be appointed and the new Government formed.</p>

(as of 25 July
2007)

Tentative Timeline for Political Transition

- Promulgation of Interim Constitution (1 Oct 2006).

- The Council for Democratic Reform transformed into the Council for National Security (CNS).
- Appointment of Prime Minister who will form a civilian government (PM appointed on 1 Oct 2006).

- ~~Sweeping of the National Legislative Assembly (NLA) by 2006 and then appointing on 20 Oct 2006 and inaugural session convened on 20 Oct 2006).~~

- Convening of the **National People's Assembly** (2,000 persons) from all sectors of society (1,982 members appointed on 9 Dec 2006).

- Nomination of a list of 200 persons by the National People's Assembly, from which CNS selects 100 persons to form the **Constitution Drafting Assembly (CDA)** (100 members appointed on 1 Jan 2007 and 1st meeting on 8 Jan 2007).

- Start of Constitution drafting by the **Constitution Drafting Committee (CDC)** (35 persons) comprising eminent persons of whom 25 are selected by the Constitution Drafting Assembly and 10 proposed by the CNS.

- Completion of 1st draft of the Constitution (released on 19 Apr and formally presented for inputs on 26 Apr 2007).

- The draft Constitution to be presented for deliberation of the Constitution Drafting Assembly, Council for National Security, Cabinet, National Legislative Assembly and other relevant institutions and agencies. A **public**

hearing to be arranged. The draft Constitution is to be revised based on inputs from all relevant institutions and agencies as well as public hearing. (Revised draft finalized on 6 Jul 2007).

6 months
after the first
meeting of
the
Constitution
Drafting
Assembly

- Publication of the draft Constitution for dissemination.
- Finalisation of the draft Constitution through **National Referendum** (to be organized on 19 August 2007).
- Promulgation of the new Constitution.
- Parallel drafting of organic laws and approval by National Legislative

Assembly (within 90 days after completion of draft Constitution – CDC to

submit drafts to NLA tentatively by 19 Aug; NLA to consider and approve by 2 Oct).

FREE AND FAIR ELECTIONS

(scheduled for 16 or 23 Dec 2007 but if possible 25 Nov 2007)

110TH CONGRESS
1ST SESSION

H. R. 2382

To promote a return to democracy in Thailand.

IN THE HOUSE OF REPRESENTATIVES

MAY 17, 2007

Mr. KIRK introduced the following bill; which was referred to the Committee
on Foreign Affairs

A BILL

To promote a return to democracy in Thailand.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Thailand Democracy
5 Act of 2007”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) On September 19, 2006, the military and
9 police of the Kingdom of Thailand overthrew the
10 elected government of Prime Minister Thaksin
11 Shinawatra. At the time, the premier was in New

1 York City for a meeting of the United Nations Gen-
2 eral Assembly.

3 (2) General Boonyaratkalin, leader of the mili-
4 tary coup, suspended the constitution and dissolved
5 the Cabinet, both houses of Parliament, and the
6 Constitutional Court of Thailand.

7 (3) On September 21, 2006, the Department of
8 State issued a statement saying, “There’s no jus-
9 tification for a military coup in Thailand or in any-
10 place else . . . we certainly are extremely dis-
11 appointed by this action. It’s a step backward for
12 democracy in Thailand.”.

13 (4) Following the military coup, the United
14 States suspended \$24 million in bilateral assistance
15 to the Thai Government.

16 (5) Eight months after the military coup, de-
17 spite promises by the military leaders to the con-
18 trary, Thailand still has not drafted a permanent
19 constitution, held a referendum, or called for elec-
20 tions.

21 (6) On December 30, 2003, the President noti-
22 fied Congress that he designated the Kingdom of
23 Thailand as a major non-NATO ally of the United
24 States for purposes of the Foreign Assistance Act of
25 1961 and the Arms Export Control Act.

1 (7) The benefits Thailand enjoys as a result of
2 its major non-NATO ally status include—

3 (A) allowing it to participate in certain
4 counter-terrorism initiatives;

5 (B) allowing it to purchase depleted ura-
6 nium anti-tank rounds;

7 (C) giving it priority delivery of military
8 surplus;

9 (D) loaning it equipment and materials for
10 cooperative research and development projects
11 and evaluations;

12 (E) permitting it to use United States fi-
13 nancing for the purchase or lease of certain de-
14 fense equipment;

15 (F) giving it preferential treatment with
16 respect to reciprocal training;

17 (G) expediting its export processing of
18 space technology; and

19 (H) permitting its corporations to bid on
20 certain Department of Defense contracts for
21 the repair and maintenance of military equip-
22 ment outside the United States.

1 **SEC. 3. TERMINATION OF DESIGNATION OF THE KINGDOM**
2 **OF THAILAND AS A MAJOR NON-NATO ALLY.**

3 (a) **TERMINATION OF DESIGNATION.**—The designa-
4 tion of the Kingdom of Thailand as a major non-NATO
5 ally of the United States pursuant to paragraph (1) of
6 section 517(a) of the Foreign Assistance Act of 1961
7 (Presidential Determination No. 2004–16; 69 Fed. Reg.
8 2053) shall be deemed to have been terminated by the
9 President pursuant to paragraph (2) of such section irre-
10 spective of the requirement to notify Congress pursuant
11 to such section.

12 (b) **EFFECTIVE DATE.**—

13 (1) **IN GENERAL.**—Subsection (a) shall be effec-
14 tive for the period beginning on the date of the en-
15 actment of this Act and ending on the date on which
16 the Secretary of State certifies to the appropriate
17 congressional committees that the Government of
18 Thailand has drafted a new constitution, held a na-
19 tional referendum to approve the new constitution
20 and scheduled a date for national democratic elec-
21 tions to elect a new government under the new con-
22 stitution.

23 (2) **DEFINITION.**—In this subsection, the term
24 “appropriate congressional committees” means—

1 (A) the Committee on Foreign Affairs and
2 the Committee on Appropriations of the House
3 of Representatives; and

4 (B) the Committee on Foreign Relations
5 and the Committee on Appropriations of the
6 Senate.

7 (c) RULE OF CONSTRUCTION.—Nothing in this sec-
8 tion shall be construed to authorize the President to issue
9 a separate designation of Thailand as a major non-NATO
10 ally of the United States pursuant to section 517(a)(1)
11 of the Foreign Assistance Act of 1961 for the period dur-
12 ing which subsection (a) is in effect.

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